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Human Trafficking and Smuggling of Migrants as Sources of Money Laundering: the Case of Ethiopia

By

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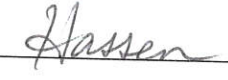
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Acronyms

AML:	Anti Money Laundering.
AMLFT:	Anti Money Laundering and Financing of Terrorism.
Art:	Article
ETB:	Ethiopian Birr.
FATF:	Financial Action Task force.
FIC:	Financial Intelligence Center.
FDRE:	Federal Democratic Republic of Ethiopia.
ILO:	International Labour Organization.
IOM:	International Organization for Migration.
MoFA:	Ministry of Foreign Affairs.
OECD:	Organization for Economic Cooperation and Development.
RSA:	Republic of South Africa.
SNNPRA:	Southern Nations Nationalities Peoples Regional Administration.
UNTOC:	United Nations Convention against Transnational Organized Crime
UNHCR:	United Nations Higher Commission for Refugees
USD:	United States Dollar

Abstract

There is growing tendency that criminals are involving in generating illegal profit from trafficking and smuggling of migrants across the world. Since the nature of the crimes, in most cases, is linked with organized transnational criminals, several international researchers have shown trend and magnitude of the problem. Moreover significant numbers of Ethiopians were being trafficked/ smuggled to the Middle East, Republic of South Africa and to Europe. The purpose of the research paper, hence, is to provide a picture on the nexus between money laundering or proceeds of crime and crimes of trafficking/smuggling of migrants as predicate offences, so that suggest to consider the confiscation of traffickers/smugglers property generated from predicate offences will contribute on effective prevention of money laundering in general and human trafficking and smuggling of migrants in particular. The research has been exploited a mix of qualitative and quantitative methods of data collection. In order to draw conclusion and recommendation combined primary and secondary data analysis is conducted. Victims of trafficking from Ethiopia had cost considerable amount of money at the beginning of the process, during the process and even at the destination countries. Moreover they incurred psychological and physical costs, beyond the material and financial fee, at any point in time during or after the travel which in turn leads to the suffering of their families from socio-economic challenges. The findings of the research reveal that although the government of the Federal Democratic Republic of Ethiopia (FDRE) has been making efforts to minimize the problem in punishing criminals who are involved in such operations wider gap however is remaining on law enforcement professionals and judges regarding laundered financial or material properties generated from trafficking/ smuggling of migrants which are liable to be confiscated according to the law of the country needs to be addressed properly. The research suffers from accessing and collecting the relevant data from law enforcement professionals and judges who are currently working in all regional administrations. Furthermore, the clandestine nature of the crimes made difficulty in covering substantial information regarding the extent traffickers/smugglers generate illegal profits which constitute further research.

Chapter one

Introduction

1.1 Background of the Study

International organization and studies undertaken by individuals stress that human trafficking and smuggling of migrants are becoming sources of illegal profit for criminals. As estimated by the International Labor Organization (ILO), human trafficking as an organized crime generated US\$ 32 billion illegal profit to criminals globally.¹ Likewise, the Financial Action Task force (FATF) describes that criminals are increasing in generating illegal profit from human trafficking and smuggling of migrants².

Money laundering as a global crime has been given definitions two decades ago. FATF clearly defines money laundering as “the processing of criminal proceeds to disguise their illegal origin in order to legitimize the ill-gotten gains of crime.”³ This crime has multiple costs belonging to social, economic and political problems. The Organization for Economic Cooperation and Development (OECD) justifies that “combating the crime upon the ground that criminals accumulate significant sums of money by committing crimes such as drug trafficking, human trafficking, theft, investment fraud, extortion, corruption, embezzlement and tax fraud”⁴.

¹ ILO, Patrick, Belser, 2005, p.17

² FATF/OECD: 2011, P.6, *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*

³ OECD: 2009, *Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors*. **P:11**

⁴ OECD: 2009, p. 11 *Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors*

Meanwhile, the United Nations Convention against Transnational Organized Crime otherwise called Palermo Convention, 2000 (UNTOC) protocols defines human trafficking and smuggling of migrants, to be treated separately depending on the nature of the problem and their modus operandi.⁵ However, it is still highly subjective, if not confusing, to distinguish between human trafficking and smuggling of migrants; because of the possibility that one can co-exist within the other on the process. Indeed, FATF rightly indicates that a possible link can emerge between the two offences when the smugglers pay smuggling cost of migrants in advance on condition of repayment or doubt bondage are extremely vulnerable to exploitation which is the main element of trafficking .⁶ Nevertheless, multitudes of studies provide enormous knowledge regarding how these crimes can be defined distinctly based on the international protocols.

It has now become clear beyond doubt that the compounded socio-economic costs of money laundering are creating havoc on the political stabilities of societies across the world. In the case of the FATF, thus, unless a country introduced a system to fight this tendency, organized crimes would be increased to the level of putting national securities at stake.⁷

There are growing evidences showing that Ethiopians are widely affected by crimes related to human trafficking and smuggling of migrants. Above all (Notably), researchers have so far focused on women and children. Therefore, there is a dire need for proper awareness creation on

⁵ For further knowledge refer UNTOC Protocols in chapter three.

⁶ FATF, 2011, p:8, *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*,

⁷ <http://www.fatf-gafi.org/pages/faq/moneylaundering/> What influence does money laundering have on economic development?

the ranges of the illegal profit generated from human trafficking and smuggling of migrants and follow up to apply the country's law that entails confiscation of the laundered values.

1.2 Statement of the Problem

International organizations have conducted several researches that could help the country address human trafficking and smuggling of migrants. Regardless of the existing confusion on defining and handling human trafficking and smuggling of migrants separately, assessments have been made regarding the societal impacts of the crimes. Researchers explain that the transnational nature of the crimes make it difficult to identify the exact figure of victims. Taking this into consideration studies emphasize a significant number of Ethiopians is smuggled/trafficked to Middle East, South Africa and Europe via Sudan. Among others the UNODC, International Organization for Migration (IOM) and ILO often provide up to date information concerning the magnitude and trend of the problem. UNODC and ILO estimates 75,000 –100,000 Ethiopians migrate illegally to Libya annually.⁸ Moreover, the United Nations Higher Commission for Refugees (UNHCR) released a report on January, 2013 shows Some 84,000 migrants through risky sea journey arrived Yemen during 2012.⁹

Some reports specify that the Federal Police Organized Crime Investigation Unit has conducted investigations and criminals involved in trafficking/smuggling had been punished. The State Department of the United States of America indicates 77 convictions under Articles 598 and 571

⁸ ILO: 2011, P.48, trafficking in persons overseas for labor purposes

⁹ <http://www.unhcr.org/refworld/docid/50f684992.html> [accessed 31 March 2013]

and ordered punishments ranging from one year to 12 years of imprisonment.¹⁰ Even if Ethiopia has made some efforts in preventing human trafficking, including the formation of National Ministerial Committee, researchers indicate that such crimes are still increasing. Among others Emebet¹¹ emphasizes that private and government bodies couldn't still comprehend the magnitude of the problem.

The government of the Federal Democratic Republic of Ethiopia (FDRE) issued Anti Money Laundering and Financing of Terrorism law (AMLFT) on December 2009, latter amended to meet the international standards in 2013. Both proclamations allow confiscation of proceeds of crime generated from illegal activities including human trafficking and smuggling of migrants.

A Proclamation on Prevention and Suppression of Money Laundering and Financing of Terrorism No. 780/2013, under Article 2(3) clearly defines proceeds of crime as “any fund or property derived or obtained, directly or indirectly, from a predicate offence”¹² The law also states any crime that generates illegal profit and punishable at least with a year in imprisonment is considered as a predicate offence.¹³ Unlike the recent Proclamation, the Proclamation on Prevention and Suppression of Money Laundering and the Financing of Terrorism No. 657/2009 to define money laundering extends to Article(Art) 684 of the criminal code. Under this Art human trafficking and smuggling of migrants can be considered as predicate offences through

¹⁰ www.unhcr.org, 2012

¹¹ Emebet Kebede, n.d, p.43.

¹² Art,2(3)Proclamation, 780/2013.

¹³ Id, Art, 2(4)

Art 243(2),or (3) of the criminal code. Moreover predicate offence can include when either the commission of crimes of human trafficking or smuggling of migrants punishable with rigorous imprisonment for minimum of ten years or the amount of money or the value of property involved in the crime is at least fifty thousand Ethiopian Birr(ETB).¹⁴

However, despite the emphasis on this, what is surprising to note is that no research material has revealed any conviction of traffickers/smugglers in relation to money laundering. Therefore, the current study will give focus on assessing the knowledge of law enforcement professionals and judges, the phenomenon of human trafficking and smuggling migrants and the range of fruits of crimes so that it will contribute towards preventing the crimes.

1.3 Objectives of the Study

The general objective of the study is to understand the extent to which law enforcement professionals and judges are aware that criminals' illegal profit generated from human trafficking and smuggling of migrants is predicate offence to money laundering.

The specific objectives are:

- To assess global concern with regard to crimes of human trafficking and smuggling of migrants and in relation to Ethiopian experience.
- To find out international and national legal instruments practice on the issue
- To assess primary and secondary data and show the ranges of criminals' illegal profit generated from human trafficking and smuggling of migrants.

¹⁴ Art 684(7)

- To analyze how enforcement law officers and judges understand the proceeds of crime laundered in the form of financial or material values and liable to be confiscated according to the law of the land. By so doing this study will duly contribute to the reduction in crimes of human trafficking and smuggling of migrants as sources of money laundering.

1.4 Research Questions

The central research question of this research is to find out the reasons as to why there has been no particular conviction on the ground of human trafficking and smuggling of migrants related to money laundering.

The specific research questions are:

- What is the current pattern of human trafficking and smuggling of migrants in Ethiopia?
- What international and national legal instruments are being practiced in combating the crimes?
- To what extent do traffickers/smugglers draw illegal profits generated from smuggling or trafficking operations?
- To what extent do the law enforcement officers and judges are aware of the nexus between double crimes that money laundering as proceeds of crime and human trafficking and smuggling of migrants tantamount to predicate offence?

1.5 Methodology

This study seeks to explore an understanding on the nexus between the proceeds of crime (money laundering) and the trafficking and smuggling of migrants generating illegal profits (predicate offences). It is an instrumental case study that investigates a contemporary phenomenon in order to help in finding solutions to the problem affecting Ethiopian security and sovereignty. In order to attain this objective, the researcher employed a mix of qualitative and quantitative methods. Qualitative methodology helps to collect data that will be interpreted or give meanings with few population samplings. Quantitative method was also adopted in relation to illuminating some basic facts through simple percentage frequency such as when calculating the range and average of illegal profits.

Design and Data Collection of the Study

The researcher employed purposive or judgmental sampling, which can help select subjects to the purpose of the study. The study selected 17 investigators, 6 prosecutors, 6 judges, 18 returnees, 1 governmental official and 1 nongovernmental informant related with the issue. Data that informs the study is based on primary sources which include (interviewee and questionnaire respondents, governmental and nongovernmental records). Additional information was also collected from secondary sources which encompass books, articles, papers, journals and related research outcomes. International and national official websites were also employed as relevant sources.

1.6 Significance of the study

Crimes of human trafficking and smuggling of migrants are endangering the lives of persons across the world as well as at the national level. Hence, these crimes have been paid attention globally including implementing mechanisms in combating such activities, so that dignity of migrants would be respected and benefit from their efforts. Although Ethiopia, to reduce the problem, has been taking measures, Ethiopian victims are increasing from time to time. Since the nature of the problems is complex and transnational, it needs multiple prevention mechanisms. Among others conviction on individuals who are involved in these criminal activities can contribute to the overall effort but, confiscating criminals' properties could play significant role in discouraging the act. Therefore exploring enforcement officers' knowledge in relation to the law and informing the result, especially, to investigators, prosecutors and judges could help understand their perception of the issue at hand and thereby help provide appropriate recommendations to combating these crimes. On the one hand, this, coupled with other prevention mechanisms can save citizens from endangering their lives or harmful situations. In addition, this piece of research could also inspire for further study on the issue.

1.7 Scope of the Study

The research was conducted in line with the Palermo Protocols' definitions of human trafficking and smuggling of migrants. The center of study is investigating law enforcement professionals and judges' understanding towards the correlation between money laundering or the illegal profit (proceeds of crime) and human trafficking and smuggling of migrants (predicate offences) which is incorporated in the law of the country. The research in relation to the topic covers from

December, 2009 onwards the time where the first AMLFT proclamation was issued. Although the definition of human trafficking encompasses victims of both domestic and trafficking from the country, the research is delimited to focus only on victims of trafficking from Ethiopia. In addition to that to narrow the focus, the research doesn't cover the whole magnitude of the problem, the effort to protect the overall crimes and modus operandi of the crimes.

1.8 Limitations of the Study

Nowadays criminals increasingly used human trafficking and smuggling of migrants as sources of illegal profit. However due to many factors this research suffers from accessing and collecting data so as to clearly understand the problem. The hidden phenomena of the problem made difficulty in covering substantial information regarding the extent traffickers exploits migrants during the process and at the destination country. Since major sources of migrants are rural areas, the researcher, due to budget and time constraint couldn't cover law enforcement professionals and judges who are working in all regional administrations.

1.9 Structure of the Study

The government of FDRE issued AMLFT law. This law contributes in discouraging criminals who are involved in operating human trafficking and smuggling of migrants. This paper is mainly organized in five chapters to show nexus between crimes of money laundering and trafficking and smuggling of migrants and the illegal profit generated from the crimes of trafficking/smuggling migrants. Chapter one gives back ground, statement of the problem, objective and significance of the study and scope and limitations of the study. Reviewing literatures in relation to the concepts and general prevalence of the crimes is discussed in chapter

two. This chapter focuses on the definitions and prevalence of the crimes. Chapter three describes what legal instruments at the international, regional and country level are undertaken in combating these crimes. The next chapter explains what and how method and design employed in the overall study. Major findings and critical analysis particularly on issues of law enforcement understanding on the nexus between the predicate offences and fruits of crime, elements of trafficking versus smuggling of migrants and range of illegal profits are covered in chapter five. The last chapter presents conclusions and recommendations based on the previous chapters.

Chapter two

Review Related Literatures

2.1 Concepts of the Crimes

2.1.1 Money laundering and Contextual Understanding

Money laundering has been considered as a crime since 1931. The term 'money-laundering' is said to be originated from Mafia ownership of Laundromats in the United-States. Gangsters were earning huge sums in cash from extortion, prostitution, gambling and bootleg liquor. They needed to show a legitimate source for these monies.¹⁵ Henceforth, it is defined by jurisdictions, organization and individual writers in relation to the predicate offence somehow are differently.

Internationally money-laundering became known since the Convention against Illicit Trafficking in Narcotic and Drugs /Vienna convention/ which the Convention defines the term 'proceeds of crime' is generated from drug trafficking.¹⁶ Latter the Palermo Convention extends the sources of proceeds of crime that covers all illegal activities including human trafficking and smuggling of migrants.¹⁷ The Financial Action Task Force (FATF) is an inter-governmental organization which is mandated to develop and promote policies to fight money laundering and financing of terrorism substantiates money laundering as a consequence of almost all profit generating crime¹⁸. As the Queensland's Crime and Misconduct Commission the term 'money-laundering'

¹⁵ Billy's Money laundering Information Website available on line at http://www.laundryman.u-net.com/page1_hist.html, visited on May 2, 2013.

¹⁶ 1988, The Vienna Convention,

¹⁷ UNTOC, 2000, Article 2.

¹⁸ (<http://www.fatf-gafi>)

refers to the activities and financial transactions that are undertaken with the specific aim of hiding the true source of income.¹⁹ The deputy manager of the International Monetary Fund describes money laundering coupled with financing of terrorism harm the overall economy.

According to Zhu:

Money laundering and the financing of terrorism are financial crimes with economic effects. They can threaten the stability of a country's financial sector or its external stability more generally. Effective anti-money laundering and combating the financing of terrorism regimes are essential to protect the integrity of markets and of the global financial framework as they help mitigate the factors that facilitate financial abuse. Action to prevent and combat money laundering and the financing of terrorism thus responds not only to a moral imperative, but also to an economic need.²⁰

Money laundering is a process of concealing and converting dirty money or illegal profit into clean money or legitimate market. According to FTAF, money laundering has three stages. These are placement, layering and Integration. In the initial or placement-stage of money laundering, the launderer introduces his/her illegal profits into the financial system.²¹ However the concealing process that launderers employ to disguise the true nature of ill-gotten money might not be the same in all countries due to disparities of technological and economic development. In the case of developing countries regardless of the size of the money unless there

¹⁹ Crime and Misconduct Commission (CMC) (2005) Money laundering Background intelligence brief, July 2005, Queensland, retrieved from http://www.cmc.qld.gov.au/research-and-publications/publications/crime/money_laundering.pdf/P.1, Usually the money involved has been derived from an illegal enterprise and the goal is to give that money the appearance of coming from a legitimate source.

²⁰ IMF, (2013) The IMF and the Fight Against Money Laundering and the Financing of Terrorism, Min P:1
(Zhu, Deputy Managing Director of the International Monetary Fund.)

²¹ <http://www.fatf-gafi.org/document/29/0,3343>

is access to financial systems, criminals mostly could use alternative ways in disguising the origin or true nature of the illegal profits.

Negative impacts of money-laundering

It is comprehensible that money laundering has negative effects on global, regional as well as national economic development and stability. The study conducted by Bartlett L Bren describes that money laundering undermines domestic capital formation.²² The study further clarifies that money laundering first erodes financial institutions themselves.²³ Bartlett also asserts that “money laundering also has a more direct negative effect on economic growth in the real sector by diverting resources to less-productive activity, and by facilitating domestic corruption and crime, which, in turn, depress economic growth.”²⁴

The other point which needs attention is, money laundering distorts trade flows. Laundering of outbound illicit funds affects developing countries by facilitating capital flight and hindering capital inflow from developing countries.²⁵ Money laundering emanates from offences that havoc cultural and legal instruments of societies. Therefore it has negative effect on major socio-economic aspects of every jurisdiction. If criminals influence economic and political aspects of one nation, it can directly weaken the cultural, social and ethical standards of a society.²⁶

²² Bartlett, L Brent (2002), The Negative Effects of Money Laundering on Economic Development p:5

²³ Ibid

²⁴ Ibid,p:5

²⁵ Ibid, p:24

²⁶ <http://www.fatf-gafi.org/document/29/0,3343>

2.1.2 Conceptualization of Human Trafficking and Smuggling of Migrants.

a/ Human Trafficking

The concept of human trafficking as a crime, in the form of forced labor, became a global concern since 1815 when commitment was shown to condemn and abolish the slave trade at the Congress of Vienna.²⁷ Following this, ILO defines the term ‘forced labour’ as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”²⁸ From this time forth, organizational and individual researches indicate that human trafficking is conceptualized mostly related with movement and exploitation of human beings.

The UNTOC Protocol has come up with theoretical and institutional mechanisms in order to protect human beings from impacts of crimes related to human trafficking. Several researchers attempted to clarify human trafficking in line with the definition of Palermo Protocol. The central tenet of the Palermo Protocol on trafficking in person revolves around Preventing, Suppressing and Punishing Trafficking in Persons, especially Women and Children, supplementing the UNTOC. The protocol states elements of recruitment, transport, harboring or receipt for the purpose of exploitation and coercion are criminalized.²⁹ UNODC also, in line with the Palermo Protocol clarifies the elements that the crime constitutes.³⁰

²⁷ UN: (2002), *David Weissbrodt, D. and Anti-Slavery International*, Abolishing Slavery and its Contemporary Forms, 2002 P:3

²⁸ ILO: (2007) General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)

²⁹ Article 3(a) Trafficking in Person Protocol

³⁰ How is human trafficking different to migrant smuggling available at <http://www.unodc.org/unodc/en/human-trafficking/faqs.htm> accessed on May 3, 2013

Box2.1 Definition of Human Trafficking

The definition on trafficking consists of three core elements:

- 1) The **action** of trafficking which means the recruitment, transportation, transfer, harboring or receipt of persons.
- 2) The **means** of trafficking which includes threat of or use of force, deception, coercion, abuse of power or position of vulnerability
- 3) The **purpose** of trafficking which is always exploitation. In the words of the Trafficking Protocol, article 3 "exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs

The ILO also indicates, with the exception of removal of organs and forced marriage or adoption, there is clear link between the Protocol and ILO Convention No. 29 that the definition of 'Human Trafficking' is much more similar with 'Forced Labour'³¹

b/ Smuggling of Migrants.

Experts are debating about the link between smuggling of migrants and other forms of transnational movement of persons in particular irregular migration and trafficking in persons.

Recent literature has also attempted to improve concrete understanding of smuggling of

³¹ ILO (2012), Global Estimate of Forced Labour, p: 20

the definition of forced labour has been interpreted by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) to encompass trafficking in persons for the purpose of exploitation, as defined by the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The only type of exploitation specified in the Protocol's definitional article that is not also covered by ILO Convention No. 29 is trafficking for the removal of organs.

migrants. The study conducted by UNODC indicates that the quality of the information available is somewhat limited, since many authors tend to mix up smuggling of migrants with other forms of organized crime, such as trafficking in persons.³² However the widely accepted definition by the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UNTOC (Palermo Protocol on smuggling of migrants) defines ‘Smuggling of Migrants’ as the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent residents.³³

c/ Four Main Differences Between Human Trafficking and Migrant Smuggling.

Several literatures describe difficulties in understanding separately due to the overlapping nature of the crimes. Nevertheless based on the Palermo Protocols these crimes have been understood and an attempt is made to identify their differences and similarities.

³² UNODC (2011), *Smuggling of migrants: a global review and annotated bibliography of recent publications*, New York, publishing production: UNOV/dm/cms/epl, retrieved From, www.unodc.org/documents.pdf, p.12/13 Each of the theories used to conceptualize smuggling of migrants has brought to light different aspects of the phenomenon. However, taken separately, they do not manage to capture the various dimensions of the migrant-smuggling phenomenon. Future research aimed at analyzing migrant-smuggling mechanisms should include an approach combining the different theories in order to reflect the complexity of the phenomenon.

³³ Article 3(a) Smuggling of Migrants Protocol.

Box 2. 2: Differences of Human Trafficking and Smuggling of Migrants.³⁴

1. **Consent** - migrant smuggling, while often undertaken in dangerous or degrading conditions, involves consent. Trafficking victims, on the other hand, have either never consented or if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive action of the traffickers.
2. **Exploitation** - migrant smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim.
3. **Transnationality** - smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another state or moved within a state's borders.
4. **Source of profits** - in smuggling cases profits are derived from the transportation or facilitation of the illegal entry or stay of a person into another country, while in trafficking cases profits are derived from exploitation.

Identifying whether a case is one of human trafficking or migrant smuggling and related crimes can be very difficult for a number of reasons: Some trafficked persons might start their journey by agreeing to be smuggled into a country illegally, but find themselves deceived, coerced or forced into an exploitative situation later in the process.

³⁴ How is human trafficking different to migrant smuggling available at <http://www.unodc.org/unodc/en/human-trafficking/faqs.htm> accessed on May 3, 2013

d/ The Ethiopian Context: Human Trafficking and Smuggling of Migrants

The actions, means and purposes of human trafficking and smuggling of migrants are not clearly specified under the Ethiopian legal frameworks. Art 18(2) of the Ethiopian constitution is an attempt to define human trafficking and it prohibits 'trafficking human beings for whatever purpose'. On the other hand the crime of unlawful departure, entry or residence is indicated under Art 234 of the Ethiopian criminal code which is much related to smuggling of migrants. Nevertheless, the overlapping nature of the crimes on the process makes difficult to understand smuggling of migrants differently with the concept of human trafficking.

According to the ILO, government officials who are in charge of investigating these criminal activities do not treat victims of trafficking separately with smuggling of migrants.³⁵ ILO further elaborates that government officials associate the terms of the crimes with individuals who are sending migrants without having license from the Ministry of Labour and Social Affairs or when licensed agencies violate the law by receiving fee from migrants.³⁶

Trafficking in persons includes domestic exploitation but to narrow the assessment, the research focused on external trafficking and the generated illegal profits from it. Though it is difficult to assess smuggling of migrants distinctly from trafficking, for the reason that Ethiopia has already ratified the Palermo Protocol of smuggling of migrants and accede the Protocol of trafficking in person, giving emphasis in line with internationally recognized definitions is helpful in creating awareness on law enforcement offices. For the purpose of this study an attempt is made to

³⁵ ILO, 2011, , trafficking in persons overseas for labour purposes p:19

³⁶ Ibid

consult traffickers or smugglers involves those who are involved in generating illegal profit at the departure or Ethiopian nationals who are members of the organized crime networks where ever they reside.

2.2 General Prevalence of the Problem.

2.2.1 Human Trafficking and Smuggling Migrants.

Introduction

Despite the fact that a number of researchers clarified that the clandestine nature of the crimes make unable to figure out exact number of victims, various researches and global reports have released and informed the world about the magnitude and trend of trafficked/smuggled people across the world.

2.2.1.1 Global and Regional Prevalence on Trafficking in Person

ILO estimates that, at least 2,450,000 persons are currently being exploited as victims of human trafficking.³⁷ Similarly, victims from at least 127 countries have been identified by UNODC, and this study estimates that more than 2.4 million people are being exploited by criminals at any given time.³⁸ Recent research conducted by ILO estimates:

Human trafficking can also be regarded as forced labour, and so this estimate captures the full realm of human trafficking for labour and sexual exploitation, or what some call “modern-day slavery”. The data from which the estimate derives cover the study reference period of 2002- 2011. The estimate therefore means that some 20.9 million people, or around three out of every 1,000 persons worldwide, were in forced labour at any given point in time over this ten-year period. Forced labour is classified into three main

³⁷ UNODC: (2010) The Globalization of Crime: A Transnational Organized Crime Threat Assessment. http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf, p.39

³⁸ <http://www.unodc.org/unodc/en/frontpage/2011/October/unodc-launches-first-global-database-of-human-trafficking-cases.html>

categories or forms: forced labour imposed by the State, and forced labour imposed in the private economy either for sexual or for labour exploitation.³⁹

ILO further indicates women and girls represent the greater share of total forced labour 11.4 million victims (55%), as compared to 9.5 million (45%) men and boys.⁴⁰ Another recently released UNODC research document also reveals that women account for 55-60 per cent of all trafficking victims detected globally or women and girls together account for about 75 per cent.⁴¹ The study further emphasizes trafficking for forced labor is more frequently detected in Africa and the Middle East, as well as in South-East Asia and the Pacific.⁴²

ILO estimates that 3,700,000 Africans are victims of forced labour at any time period during 2002- 2011. 29% Out of the estimated number or 1, 073,000 people are victims of cross border forced laborers' or trafficked from Africa.⁴³ According to UNODC almost all human trafficking flows originating in Africa are either interregional with Africa and the Middle-East as their destination or directed towards Western Europe and the number of convictions in relation to traffickers is insignificant for trafficking in persons is in general very low.⁴⁴

³⁹ ILO (2012), ILO Global Estimate of Forced Labour p:13/14

⁴⁰ Ibid, p:14

⁴¹ UNODC, 2012, Global Report on Trafficking in Persons p: 7.

⁴² Ibid.

⁴³ ILO (2012), ILO Global Estimate of Forced Labour p:13/17

⁴⁴ UNODC, 2012, Global Report on Trafficking in Persons p: 7.

2.2.1.2 Global and Regional Prevalence of Smuggling of Migrants.

Every year three million illegal migrants enter the United States of America from Latin America.⁴⁵ The study also estimates around 55,000 migrants are thought to be smuggled from East, North and West Africa to Europe every year.⁴⁶ Another UNODC study, in relation to smuggling of migrants, reveals that there is a growing phenomenon of smuggling of migrants mainly across the Gulf of Aden and from East Africa and the Horn to South Africa⁴⁷

2.2.1.3 National Prevalence of Human Trafficking and Smuggling of Migrants.

As it is mentioned in the above, the prevalence of these crimes depends on how the writers view the process of migrants. IOM elaborates that the scale of trafficking of young Ethiopian women and children mainly to the Middle East is difficult to estimate.⁴⁸ Therefore taking this in mind the data presented by several literatures are reviewed and summarized below.

Many International researchers have reported regarding the prevalence of human trafficking and smuggling of migrants in Ethiopia. Notably illegal migrants are vulnerable, to be abused on the process, by smugglers or traffickers. IOM asserts that external trafficking of women and children from Ethiopia, particularly to Middle-East countries, is recognized as a significant problem.⁴⁹

⁴⁵ UNODC,(2010) The Globalization of Crime: A Transnational Organized Crime Threat Assessment.
http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf p:66

⁴⁶ Ibid,p:.67

⁴⁷ UNODC (2011), *Smuggling of migrants: a global review and annotated bibliography of recent publications* p:25

⁴⁸ Yoseph, Mebratu &Reta, IOM. 2006, *Assessment of Trafficking in Women and Children in and from Ethiopia* p.55

⁴⁹ Yoseph, Mebratu &Reta, IOM, 2006 *Assessment of Trafficking in Women and Children in and from Ethiopia* p.36, November 2006

Similarly, the study conducted by the ILO describes that the origin of most of victims of human trafficking are urban areas and their surroundings, including Addis Ababa, Direedawa, Oromiya, Hawassa, and Bahirdar and other towns.⁵⁰ IOM indicates 130,000 Ethiopian women and children have migrated to the Gulf States as vulnerable to trafficking.⁵¹ On the other hand, ILO depicts that approximately 45,000 to 50,000 Ethiopians live in South Africa of which 95 per cent or more is estimated to enter RSA through irregular means.⁵² The study further estimates that 75,000 –100,000 Ethiopians migrate illegally to Libya annually.⁵³ Another study by the IMO estimates that 17,000 to 20,000 Ethiopian and Somalia men per year are smuggled to the RSA. The statistics from this study suggests that at least two thirds are Ethiopian migrants.⁵⁴ Moreover, the UNHCR released a report on January, 2013 shows some 84,000 migrants through perilous sea journey arrived Yemen during 2012.⁵⁵ Apart from the physical and sexual abuse of trafficked victims IOM confirmed that the number of dead bodies that arrived from Jeddah, Dubai and Beirut between 1999 and 2005 was 58, 21 and 50, respectively.⁵⁶

⁵⁰ ILO, 2011, trafficking in persons overseas for labour purposes, p:28

⁵¹ IOM: Yoseph, Mebratu & Reta, n.d, , *Assessment of Trafficking in Women and Children in and from Ethiopia* p:37

⁵² ILO, 2011, trafficking in persons overseas for labour purposes, p:44

⁵³ Ibid, p:48

⁵⁴ Horwood, C. IOM, (2009), *In Pursuit of the Southern Dream: Victims of Necessity Assessment of the irregular movement of men from East Africa and the Horn to South Africa*, p:123

⁵⁵ UN High Commissioner for Refugees, *A record 107,500 people reach Yemen in 2012 after risky sea crossing*, 15 January 2013, available at: <http://www.unhcr.org/refworld/docid/50f684992.html> [accessed 31 March 2013]

⁵⁶ Yoseph, Mebratu & Reta, IOM, 2006. *Assessment of Trafficking in Women and Children in and from Ethiopia* November 2006 p:53

Many researchers agree on the cause of the problem that poverty or lack of employment opportunity is the most common cause for Ethiopian nationals to be trafficked or smuggled. ILO clarifies that the causes may be categorized into two, namely, supply-side factors (push factors) and demand-side factors (pull factors).⁵⁷ The most important push factor is the socio-economic poverty which is manifested in the form of a large and predominantly young rural population with limited access to means of production. On the other hand ILO describes three major pull factors across destination countries.⁵⁸ These are: fast economic growth on regional and country level, ineffective policy of handling migrant workers, and an increasing involvement of traffickers.

Traffickers, Transportation and Routes

Traffickers/smugglers often use the same transportation and routes. ILO identifies six categories of traffickers distinguishable in terms of their identity, modes of operational system, and their role in the process. These are: brokers within the community, brokers interconnecting the process, individual returnees or visitors, unlicensed facilitators, licensed facilitators and destination point traffickers.⁵⁹ The study also indicates significant majority of victims have reported being recruited by an individual broker which is 60.7%, 37.3 by agencies and the rest 2% are by others.⁶⁰

⁵⁷ ILO, 2011, trafficking in persons overseas for labour purposes, p:21

⁵⁸ Ibid, p:24

⁵⁹ Ibid: p:31

⁶⁰ Ibid, p:32

With regard to the destination, the research also describes that transportation and routes of irregular migration of Ethiopians: these are the route to RSA through Moyale, to Saudi-Arabia through Bossasso, to Saudi-Arabia and UAE through Afar and Djibouti, to the Sudan through Metema and to Lebanon, Saudi Arabia, and UAE through Bole International Airport.⁶¹

Elements of Trafficking and Smuggling

According to IOM salaries may never be paid to victims in the Middle East.⁶² The study also further specifies an element of labour exploitation that migrant workers are working above the expected working hours. Furthermore, the study describes that victims are deceived by brokers through providing false promises.⁶³ The study also indicates that there is another land route to RSA via Kenya, is used by traffickers.⁶⁴ Another study conducted by IOM illustrates that no information is found that suggested Ethiopian, Somali (or Kenyan) men were deceived, forced or

⁶¹ Ibid, p:44-50

⁶² Yoseph, Mebratu & Reta, IOM, 2006 p:51, Assessment of Trafficking in Women and Children in and from Ethiopia for example, one returnee from Dubai was forced to return to Ethiopia without receiving her salary for the last seven months of her employment.206 Employers may take advantage of the power imbalance between themselves and the employee to deny payment of salary. Reportedly, employers also take the savings of their employees through deceit and coercion.

⁶³ Ibid, p: 44 the purpose of the first meeting is to create a resolve on the part of the potential victim to migrate. The broker reinforces her vision of migration abroad as the solution to her financial problems. The broker draws an attractive picture of life in the destination country and of the promising conditions and terms of employment. He reinforces these images with the often fictional stories of others he has sent to that country in the past. The potential victim may not have a preferred country or may doubt the selection of the suggested country. In this case, the broker will describe its many attractions in such a way that the potential victim is persuaded to select the country in which the broker has contacts. The potential victim is not informed of any problems or challenges unless she specifically raises questions. In cases where the victim asks about such matters, they are downplayed as rare incidents caused by exceptional circumstances.

⁶⁴ Ibid, p:47, According to a Kenyan newspaper, Nairobi police authorities arrested a suspected trafficker traveling with sixty-one Ethiopians. The group is believed to have been heading for South Africa traveling by road through Zambia and Mozambique.

otherwise coerced into travelling to RSA as victims of trafficking.⁶⁵ In addition to that another study conducted by ILO suggests that there are various reports of abuse and exploitation ‘en route’ to RSA by the smugglers to ensure obedience and take additional financial advantage. ILO further explains there is no record that shows exploitation of migrants once they reach the destination country, RSA.⁶⁶ Nevertheless there are evidences that explain Ethiopian migrants who planned to travel to RSA have been facing severe problems. For instance around 45 Ethiopian migrants found dead in a track on June 2012, in Tanzania.⁶⁷ Thus, this coupled with other challenges is an element of deception likely to be involved even at the departure in Ethiopia.

2.2.2 Estimation of Money Laundering or Illegal Profit

2.2.2.1 Global and Regional Estimation on Money Laundering or Illegal Profit.

Introduction

The FATF elucidates that unlike most crimes where victims report to law enforcement authorities, reporting money laundering cases are less due to the complex nature of the crime.⁶⁸

The recent research finding made by FATF and OECD explicates that “information relating money laundering arising from human trafficking or migrant smuggling is often generated from

⁶⁵ Horwood, C. IOM, (2009), In Pursuit of the Southern Dream, p.27:

⁶⁶ ILO, 2011, trafficking in persons overseas for labour purposes, p:45

⁶⁷ <http://www.reuters.com/article/2012/06/27/us-tanzania-migrants-deaths-idUSBRE85Q0K420120627>

⁶⁸ UNODC: 2011, *Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes*, p:15

operational investigations but, the focus has been much more on the crimes themselves and not on the laundering of the proceeds of those crimes.”⁶⁹ According to UNODC as an integral part of transnational organized crime, it is estimated that some 70 per cent of illicit profits are likely to have been laundered through the financial system. However less than 1 per cent of those laundered proceeds are detected and confiscated.⁷⁰

Having this in mind, international researches estimate criminals’ laundered illegal profits generated from all illegal sources including human trafficking and smuggling of migrants. The UNODC figure out the amount of money laundered through process is close to US\$1.6 trillion or 2.7% of global Gross Domestic Product in 2009.⁷¹ Literatures explain that due to lack of adequate information on the number of victims as well as the fee, calculating the exact illegal profit is difficult. From the above clarifications one can understand some models or techniques are important to estimate how much of the illegal profits can be concealed by the launderers.

a/ Illegal Profit Originated from Human Trafficking.

The study made by the ILO estimates that US\$ 32 billion per year are made by exploiting trafficked victims globally of which Sub Saharan Africa’s trafficked labourers are estimated to generate 158 million USD.⁷² Another research conducted by ILO estimates that the “opportunity

⁶⁹ FATF/OECD, (2011), *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*, Paris, p:39

⁷⁰ <http://www.unodc.org/toc/en/crimes/organized-crime.html>. Too hot to handle, how is money laundered?

⁷¹ UNODC: 2011, *Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes*, p:9

⁷² ILO: Patrick, B. 2005, p.17: *Forced Labor and Human Trafficking Estimating the Profits*

cost” of coercion to the workers affected by these abusive practices, in terms of lost earnings, now reaches over US\$20 billion.⁷³

b/ Illegal Profit Originated from Smuggling of Migrants.

Smugglers are earning a net profit of \$150 million every year by involving in migrants smuggling operations between East, North and West Africa and Europe.⁷⁴ UNODC explains about the situation and the mechanism:

Organized criminal groups turn to smuggling of migrants only for the profit that it generates. Following the money trail by launching financial investigations and freezing, seizing and confiscating assets, as well as looking for examples of money- laundering, could have a direct impact on such profits. Making the smuggling of migrants an unprofitable crime would discourage organized criminal groups from becoming involved in it.⁷⁵

2.2.2.2 National Money Laundering and Illegal Profit Records.

Introduction

In Ethiopia, in comparison with other countries, money laundering as a crime is a newly introduced concept. Some launderers had been presented to the court in relation to laundered properties generated from tax evasion and corruption. Few cases had been charged, in 2010, by the Ethiopian revenue and customs authority in relation to money laundering. Although there

⁷³ ILO:2009, *The cost of coercion, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, International Labour Conference, 98th Session, Geneva, 2009, p.2, accessed at http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_106230.pdf

⁷⁴ UNODC,(2010) *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* p.67. Accessed at http://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf

⁷⁵ Smuggling of migrants, the harsh search for a better life, facts, http://www.unodc.org/documents/toc/factsheets/TOC12_fs_migrantsmuggling_EN_HIRES.pdf

was no order passed in relation to confiscation of properties, the court sentenced with imprisonment and fine birr.⁷⁶

a/ Illegal Profit Generated from Human Trafficking and Smuggling of Migrants.

The study conducted by IOM describes that the total amount and manner of payment depends on a number of factors.⁷⁷ The study further elaborates the country of destination appears to be the most significant determinant, though there is substantial variation among specific cases. The research includes another factor that affects the Fee that is whether directly negotiated by the victim. Payments tend to be higher when negotiations are mediated by a facilitator, who earns a commission on the deal.

The research estimates that trafficked victims paid, eight thousand ETB to travel to Dubai, two thousand ETB, to travel to Yemen, five thousand ETB to travel to Qatar and Bahrain and those who traveled to Beirut paid between three to seven thousand ETB.⁷⁸

Another research conducted by ILO indicates that once migrants reach in Libya, from Ethiopian via Sudan, they will have to pay US\$1,200 – 2,500 to cross the Mediterranean.⁷⁹ The research further estimates that successful migration to Saudi Arabia from Diredawa is said to cost ETB 18,000– 25,000.⁸⁰

⁷⁶ Biniam Shiferaw, 2011, Money Laundering and Countermeasures, p: 42

⁷⁷: Yoseph, Mebratu & Reta, IOM, 2006, p:44, *Assessment of Trafficking in Women and Children in and from Ethiopia*

⁷⁸ Ibid

⁷⁹ ILO: 2011, trafficking in persons overseas for labour purposes, p:48

⁸⁰ ILO: 2011, trafficking in persons overseas for labour purposes, p:50

b/ Illegal Profit Originated from Smuggling of Migrants.

According to IOM calculating the full economic value of smuggling from the Horn Africa to RSA is problematic.⁸¹ This is mainly because there is evidence that beyond the core fees charged to smuggled migrants that are very difficult to quantify but could represent a significant sub-economy within smuggling. Nevertheless, the study estimates illegal migrants' average fee charged by main smugglers is \$1,750 to \$2,000, to travel to the Republic of South Africa.⁸²

⁸¹ Horwood, C. IOM, (2009), In Pursuit of the Southern Dream, p.123:

⁸² Ibid

Chapter three

Relevant Legal Instruments in Combating the Crimes

3.1 Anti Money Laundering Legal Instruments.

Introduction

Money-laundering is a consequence of several profit generating crimes. Generally, money-launderers tend to seek out countries or sectors in which there is a low risk of detection due to weak or ineffective AML laws.⁸³ In addition to the transnational nature of the crime, due to technological development, and economic integration, financial transactions are much interconnected across the world. Thus, to combat this crime requires legal coverage particularly on cooperation and implementation of the instruments among countries. According to Bartlett, it is difficult to quantify money laundering and its impact on economic development. To quote him:

It is clear from the evidence that allowing money laundering activity to proceed unchallenged is not an optimal economic-development policy. Because it damages the financial institutions that are critical to economic growth, reduces productivity in the economy's real sector by diverting resources and encouraging crime and corruption, and can distort the economy's international trade and capital flows to the detriment of long-term economic development.⁸⁴

The Vienna convention is the first international instrument to fight against money laundering in the form of proceeds of crime that generated from drug selling. Following this, the Palermo Convention extends the predicate offence to include all serious crimes. In line with the

⁸³ <http://www.fatf-gafi>

⁸⁴ Bartlett, L Brent (2002), The Negative Effects of Money Laundering on Economic Development p:33

international conventions, money laundering has reached as a pertinent global issue in the establishment of the FATF in 1989.⁸⁵ The study indicates that FATF is mandated to issue AMLFT recommendations which intend to set legislatives and regulatory standards.⁸⁶ The study also explains:

The AML regime is developing on two fronts, prevention and enforcement, and at three levels: national, regional and international (global). Prevention is a regulatory tool and focuses mostly on sanctions, regulatory and supervisory rules and standards, reporting and customer due diligence. Enforcement is a legal tool, concentrating on investigation, confiscation, prosecution and punishment.⁸⁷

Money laundering has been becoming a global concern. Tsingou, E. emphasizes:

Public officials have consistently presented the AML regime as a way of (i) tackling the drugs trade, the arms trade, people trafficking and other organized crime activities; (ii) supporting the integrity of the financial system, including supporting good governance and transparency; especially in the developing world (iii) combating corruption and its economic and political consequences; (iv) promoting economic development and ensuring that funds are channeled to appropriate economic endeavors and allowing for adequate levels of tax revenue; and most recently, (v) targeting the financing of terrorist activities (combating terrorist financing).⁸⁸

Ethiopia enacted a law in 2009 to combat the crime. Therefore, relevant international, regional and national legal instruments which assist to combat money laundering will be discussed.

3.1.1 Vienna Convention.

The convention under Art one defines ‘proceeds’ as any property obtained from drug related activities. Similarly defines ‘property’ as “means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments

⁸⁵ Tsingou, E. (2008), Global Governance and Financial Crime: Building Global Anti-Money Laundering Regime p:4

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Ibid, p:3

evidencing title to, or interest in, such assets.”⁸⁹ To criminalize as a process of money laundering, the Convention has shown concealment process of ill-gotten properties.⁹⁰ Taking the nature of the crime in to account, the Convention asserts need of confiscation and cooperation among countries.⁹¹ However, the Convention doesn’t cover other offences which generate proceeds of crime including human trafficking and smuggling of migrants.

3.1.2 Palermo Convention.

The Palermo Convention gives wide opportunity to consider any offence that generates proceeds of crime.⁹² The Palermo Convention specifies series crimes to be considered as a predicate offense shall be liable to be penalized at least four years.⁹³ Moreover to criminalize the transnational laundering of proceeds of crime, Art 6(1) of the convention require each country to adopt in their domestic law and to establish an offence under the provision of article 6 of the convention.⁹⁴ Art 6(2), (a) requires “Each State Party shall seek to apply paragraph 1 of this Art to the widest range of predicate offences”.⁹⁵ Sub Art2(c) indicates “For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside

⁸⁹ The Vienna convention, Article 1(q) & (p)

⁹⁰ Vienna Convention, Art 3(b) i and ii

⁹¹ Id, Art,5,6,&7

⁹² UNTOC, Art 2(e)&(h)

⁹³ Id, Art 2(b)

⁹⁴ Id, Art 6(1)

⁹⁵ Id, Art, 6(2) (a)

the jurisdiction of the State Party in question.”⁹⁶The Palermo Convention concerning money laundering put several requirements. Among others it requires countries to:

- ❖ Establish a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions in order to deter and detect all forms of money laundering.⁹⁷
- ❖ Establish Financial Intelligence Unit (FIU), to serve as a national center for information collection, analysis, dissemination, and to enhance cooperation internationally and domestically.⁹⁸

Even though drug trafficking is number one transnational organized crime that generating illegal profit in the world, the Vienna convention has gap to combat all rounded money laundering crimes. In contrast the Palermo Convention encompasses all series of crimes as predicate offences which include human trafficking and smuggling of migrants.

3.1.3 Financial Action Task Force (FATF)

FATF is an independent inter-governmental organization established by G7 countries, in 1989 and now comprises thirty-four countries and two regional organizations. The role of FATF is to develop policies and issue AMLFT recommendations which aim to set and update legislative and regulatory standards. The forty recommendations are addressed to countries and deal with an

⁹⁶ Id, Art 6(2), (c) predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there

⁹⁷ Id, Art, 7

⁹⁸ Id

extensive range of themes.⁹⁹ Since then several countries have introduced AML policies and these countries are being evaluated by FATF and FATF style regional bodies in accordance with the standards.

According to the new FATF recommendations (2012) countries required to criminalize money laundering in line with the Vienna and Palermo Conventions.¹⁰⁰ With regard to predicate offences, FATF specifies the requirement to the widest range of predicate offences which can be either linked to category of series offences or to the penalty of imprisonment applicable to the predicate offences or to a list of predicate offences or a combination of these approaches.¹⁰¹ These should include offences that are punishable with above one year's imprisonment, or, for countries of which have minimum threshold; predicate offences should comprise all offences that are punished by a minimum penalty of more than six months imprisonment.¹⁰²

In addition to that, countries require extending criminalization to any fruits of crime, whatever the value of the property, even if the law doesn't punish owner of the property in relation to predicate offence.¹⁰³ FATF also recommended countries to consider predicate offence that occurred in another country if at all the crime constitutes a predicate offence domestically and in that country.¹⁰⁴

⁹⁹ Tsingou, E. (2008), Global Governance and Financial Crime:p:4

¹⁰⁰ Ibid FATF:(2012) Interpretive note to recommendation 3 (1)

¹⁰¹ Ibid 3 (2)

¹⁰² Ibid 3 (3)

¹⁰³ Ibid, 3 (4)

¹⁰⁴ Ibid, 3 (5)

Under FATF recommendation 4 and 38, Countries are also required to adopt measures similar to those set forth in the Vienna convention and Palermo convention, establish mechanisms by which their competent authorities able to freeze or seize and confiscate properties applicable to both domestic and requests by foreign countries.¹⁰⁵ Although FATF has fundamentally set requirements based on the Vienna and Palermo Conventions, predicate offences are extended by the recommendation to include series crimes that are punishable with minimum penalty more than six or above one year's imprisonment depending on countries' threshold which deviates from the conventions.

3.1.4 Ethiopian Legal Instruments in Combating Money Laundering

a/ The Proclamation No. 657/2009

The Proclamation to define money laundering extends to Art 684 of the criminal code. This Art describes some offences to be considered as predicate offence to money laundering which includes Art 243 (2) or (3), 'Unlawful Departure, Entry or Residence'.¹⁰⁶ Moreover, sub Art (7) extends the scope of predicate offence to include serious crimes punishable with rigorous imprisonment for minimum of ten years or the amount of money involved in the crime have to be at least fifty thousand ETB. Therefore, taking the definition in relation to punishment Art 596, 597 and 598(2) should be considered as predicate offences. This Proclamation also for the

¹⁰⁵ Ibid, recommendation 4&38

¹⁰⁶ Art 784 (1), of the criminal code

purpose of confiscation of laundered properties extends to Revised Anti-Corruption Special Procedure and Rules of Evidence Proclamation No. 434/2005.¹⁰⁷

b/ Proclamation No. 780/2013

Ethiopia recently issued a Proclamation No 780/2013 to fit with the FATF recommendations. Art 684 of the Ethiopian Criminal Code has been abrogated by this Proclamation. The Proclamation, defines ¹⁰⁸ predicate offence as “any offence capable of generating proceeds of crime and punishable at least with simple imprisonment for one year.” Furthermore money laundering is defined as a process which encompasses elements of concealing or disguises the true nature, or the illicit origin of the property in relation to involved persons in that process. ¹⁰⁹

Moreover, like other countries’ Financial Intelligence units, it established FIC and became operational. The major roles of FIC are to collect, receive, store, survey, analyze and disseminate information concerning suspected money laundering and financing of terrorism in accordance with this Proclamation and enhance public awareness in relation to crime.¹¹⁰

The proclamation to combat laundered properties covers the following important laws

- ❖ Court can pass confiscation of property order on convicted criminals of money laundering or financing of terrorism or predicate offence, which includes property intermingled with or exchanged for such proceeds. ¹¹¹

¹⁰⁷ Art (9), of Proclamation, 657 /2009

¹⁰⁸ Art 2(4), of Proclamation, 780/2013

¹⁰⁹ Id, Art, 2(1) &Art 29(1),(a-d)

¹¹⁰ Id, Art, 12

¹¹¹ Id, Art, 35

❖ To trace proceeds of crime or obtain evidence of money laundering or financing of terrorism, crime investigation authorities might be authorized by the judicial organs.¹¹²

The proclamation under Art 29(3) (b) indicates “it may not be required to obtain the conviction of the predicate offence to prove the illicit origin of the property” and (c) “the predicate offence also includes actions committed outside of the national territory if they would have constituted offences if they had been committed within the territory of Ethiopia”

3.2 Legal Instruments on Human Trafficking and Smuggling of Migrants

3.2.1 The Palermo Protocol on Trafficking in Persons

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by General Assembly resolution 55/25. It is the first global legally binding instrument with an agreed definition on trafficking in persons. Art 3 (a) of the protocol defines Trafficking in Persons as:

shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.¹¹³

¹¹² Id, Art, 25

¹¹³ UNTOC: Art 3(a) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The Protocol requires countries to adopt legislative and other measures to the prevention, investigation and prosecution of the offences.¹¹⁴

3.2.2 The Palermo Protocol on Smuggling of Migrants.

The Protocol against the Smuggling of Migrants by Land, Sea and Air, adopted by General Assembly resolution 55/25, entered into force on 28 January 2004. The protocol under Art 3(a) defines ‘smuggling of migrants’ “shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”.

The Protocol requires countries to adopt legislative and other measures to establish as criminal offences including to the prevention, investigation and prosecution of the offences when smugglers committed a crime in relation to smuggling migrants.¹¹⁵

3.2.3 Other Relevant Regional Instruments.

African Charter on Human and Peoples Rights Art 5/ states that all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.¹¹⁶ Ethiopia ratified it.¹¹⁷ Protocol to the African Charter on Human and Peoples Rights of Women in Africa Art 3, sub Art 3. “Right to Dignity

¹¹⁴ Ibid , Art (4)&(5)

¹¹⁵ UNTOC, Art, (6), Protocol against the Smuggling of Migrants by Land, Sea and Air.

¹¹⁶ African Charter on Human and Peoples Rights, Adopted in Nairobi June 27, 1981
Entered into Force October 21, 1986

¹¹⁷ MoFA, compiled document

states” States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women¹¹⁸.

Art 4(1) also states “The Rights to Life, Integrity and Security of the Person”. Every woman shall be entitled to respect for her life and the integrity and security of her person. “All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.”¹¹⁹ In addition to that Sub Art 2(g) indicates that “States Parties shall take appropriate and effective measures to prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk”¹²⁰

3.2.4 Ethiopian Legal Instruments

Ethiopia has made efforts to comply with the UN Conventions. It has ratified several UN and ILO Conventions including the UN Convention for the Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others, 1949. In addition to that, Ethiopia ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air adopted by the United Nations in 2012.¹²¹ The recently updated (March, 22, 2013) UNODC country status on both protocols shows the Ethiopia is positioned in an accession status on 22 Jun 2012.

The Constitution of FDRE under Art 18(2) states “No one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.” To support this constitution

¹¹⁸ Protocol to the African Charter on Human and Peoples Rights of Women in Africa, 2003

¹¹⁹ Id

¹²⁰ Id

¹²¹ Proclamation, 736/ 2012

the revised Criminal Code included some Articles. These are; Art 243 belongs to ‘Unlawful Departure, Entry or Residence’, Art 596 belongs to Enslavement, Art597 belongs to ‘Trafficking in Women and Children’, Art 598 covers a crime committed through unlawful sending of Ethiopians abroad for work, and Art 635 belongs to ‘Traffic in Women and Minors’. Under these Articles both crimes of human trafficking and smuggling of migrants are punishable with rigorous imprisonment between five to twenty years with the exception of Art 635 which set crimes are punishable with rigorous imprisonment to minimum of five years.

In terms of combating these crimes, the assessment report released by the United States of America State department indicates Ethiopia has Tier 2 status.¹²² This shows Ethiopia is categorized with Countries whose governments do not fully comply with the Trafficking Victims Protection Acts (TVPA’s) minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

¹²² The United States of America department of states (2012) ,Trafficking in persons report p.52

Chapter four

Methodology of the Study

This chapter presents the methods followed to conduct this research. It encompasses design of the research, issues of sample and sampling, data collection, data collection instruments and procedures and data analysis techniques employed for this research.

4.1 Design of the Study

The study seeks to describe the nexus between money laundering and human trafficking and smuggling of migrants as predicate offences. It is an instrumental case study that explores a contemporary phenomenon in order to help find solutions to an emerging global and regional problem that has potentials to affect Ethiopian security and sovereignty. In order to attain this objective, the study is designed along both qualitative and quantitative methods.

Qualitative method is mainly used to obtain a better picture on how law enforcement professionals and judicial officials understand the nexus between money laundering and the profit generated from human trafficking and smuggling of migrants. In addition, qualitative method is also used to understand the phenomenon of trafficking versus smuggling of migrants. These issues of human trafficking and smuggling are contextual and hence individually characterized. Thus this method helped the research to bring out the experiences of the returnees from their own contextual point of view.

Quantitative method is used to calculate traffickers/smugglers' average illegal profit generated from crimes of human trafficking and smuggling of migrants. However, by and large, much emphasis has been given to qualitative research methodology.

4.2 Sources of Data

The research uses both primary and secondary data sources. Law enforcement professionals and judicial officials who are currently working in Addis-Ababa, Bahirdar, Mekelle, Diredawa and Awassa were selected for primary sources. In addition, data and relevant documents were collected from relevant representatives from Ministry of Foreign Affairs (MoFA), nongovernmental organizations and returnees. Besides, literatures on the issue were consulted as a secondary data sources including books, articles, papers, journals and related research outcomes. In addition, international and national official websites were also glanced to collect relevant data for the research.

4.3 Sampling of Study Population

The researcher employed purposive or judgmental sampling, which helped to select subjects for the purpose of the study. Though purposive sampling may never stand the test of population representativeness; it is still more appropriate for the current research. This is mainly because the researcher does not have easy access to cover all victims, investigators, prosecutors as well as judges across the nation.

4.4 Target Group

Respondents were drawn from law enforcement professionals, victims, and governmental and nongovernmental individuals with a specific entitlement to the issue. The study has selected 17

investigators, 6 prosecutors, 6 judges, 18 returnees, 1 governmental official from MoFA and 1 from non-governmental organization.

4.5 Data Collection

Regarding data collection methods, data from court cases and the degree of awareness and experiences of investigators; prosecutors and judges in relation to these complex crimes have been collected. The study also gathered quantitative data that could support the overall qualitative analysis, and show the ranges of fee paid by the victims. This helped to investigate the nature of crime-driven transactions across suspected primary routes of exit from the country. This also helped to calculate the range of illegal profits and developing mechanisms of controls.

4.6. Data Collection Instruments

In order for the research to be valid and reliable several data collection tools and techniques have been used. These include 1) semi-structured interview, 2) questionnaire, and 3) review of documents.

1) Interview

Semi structured Interviews was used to collect information from two categories of informants: a) law enforcement and employees' experience and knowledge in relation to the links between the predicate offence and proceeds of crime and b) returnees and governmental and nongovernmental individuals. This helped the research to understand patterns of human trafficking and smuggling of migrants. The instrument was also used to gather data from law enforcement professionals, returnees and other sources towards estimating the amount of money that victims had paid.

a) Interviews with Law Enforcement Professionals and Judges

Semi-structured interview was conducted with 8 investigators (3 federal police investigators in Addis-Ababa and 4 investigators from Oromiya) and one head of security and administration office at Southern Nations Nationalities Peoples Regional Administration (SNNPRA). The selected Federal Police Investigators are highly experienced and qualified by far better than other investigators working on regional administrations. Therefore, it was relevant sample to compare and contrast with regard to the response from others.

In order to collect information from investigators, open ended questions were used to identify the level of understanding in relation to the predicate offences and the fruits of crime. Questions were designed based on the definition of Palermo protocols and Ethiopian AMLFT law and how they understand predicate offences to money laundering, investigated and punished cases in relation to trafficking/smuggling migrants and investigated or punished cases in relation to money laundering etc.

b) Interview with Returnees

Interviews were held with returnees who are temporarily sheltered at two nongovernmental organizations which are called Agar Ethiopia and Good Samaritans. This was mainly used to determine patterns of trafficking in persons or smuggling of migrants. In addition to that information was also collected regarding range of fees paid by victims.

To collect qualitative information, interview guidelines was designed based on the Palermo Protocols' definition of trafficking in person and smuggling of migrants. In line with these definitions relevant indicators were identified and to detect those, open ended questions were raised to understand how victims view and explain their process: at the beginning, at the middle

of the process and at the destination country. Whatever migrants use illegal or legal facilitators, the study to understand the situation identifies indicators; such as elements of deception, consent, forced recruitment, document retention and working situation in destination countries.

There is a wider limitation since the sample used returnees are all victims of trafficking that couldn't represent Ethiopian migrants who aren't on similar situation. Taking this into consideration, to explore pattern of migrants' process, information was collected from 18 (only one male) returnees, one official from MoFA and one interviewee from nongovernmental organization. Among the interviewees 2 victims had travelled to Sudan through the border Metema, one had used perilous travel to Yemen through Djibouti and the rest 15 had travelled via Bole Air Port. In terms of facilitators, 12 victims used illegal facilitators while 6 were processed through licensed agencies.

2) Questionnaire

In this, 21 structured questionnaires were distributed to law enforcement professionals and judicial officials who are currently working at Direedawa, Awassa, Mekelle and Bahirdar. The questionnaire is designed in line with the National legal instruments regarding money laundering and the definition of human trafficking and smuggling of migrants by UNTOC Protocols. Along this line, two issues of importance were checked: whether the professional understand clearly about human trafficking and smuggling of migrants as sources of proceeds of crime which can be laundered in the process. The first question requires general answer which asks whether respondents clearly understand that both crimes are predicate offences to laundered financial or materials benefits. The second question needs detail information which includes figuring out investigated or prosecuted or punished cases and confiscated properties in relation to money

laundering. Information was also collected regarding patterns of human trafficking and smuggling of migrants and money migrants pay.

3) Review of Document

Legislative and policy documents were reviewed related to money laundering, smuggling and trafficking citizens from Ethiopia. These include, the Constitution of FDRE and criminal code, Ethiopian AMLFT Proclamations and international conventions. Recently MoFA compiled document which shows statistical data including number of migrants who traveled from Ethiopian within the last five years (2008-2013) through legal process and sample of convicted cases across the country. Research outputs related to money laundering, human trafficking and smuggling of migrants were consulted. Police and court cases related to human trafficking, and smuggling of migrants and fruits of crime generated from trafficking and smuggling process was also taken into account. These all helped to understand and interrelate how the law of the country go with the international legal instruments. Reviewing documents helped to understand what is studied in relation to these crimes globally in general and Ethiopia in particular.

4.7. Data Collection Procedures and Ethical Issues

Data collection was conducted following interconnected attachment between initial responses. Interview was conducted at both shelters by explaining the purpose of the study and after ensuring consent from the interviewees. Since conducting research virtually involves a kind of interaction particularly with those groups of people from which the study is aimed at collecting data with the intent to finally analyze and come up with a relevant conclusion, undertaking the research paying due regard at least to the basic ethical principles is a necessity. Taking this into consideration the study undertook the assessment of illegal activities demonstrated by material or

illegal benefits related to smuggling or trafficking operations. Hence research subjects who participated in the process as respondents particularly the returnees would carry risks. Therefore measures were taken on issues of protection on the process of the data collection.

The researcher used the principle of self determination and transparency for returnees who didn't like to participate in the process, particularly one returnee at Good Samaritans Shelter.

Agreement also reached regarding confidentiality that their names will not be disclosed on the analysis and findings of the study. Name of returnees was converted and pseudo names are used, but for the purpose of the research returnees' place of origin, their way of transportation and routes, the amount of money charged by smugglers or traffickers during the whole process and their place of destination are presented. Generally with regard to data management, personal data were collected, used and stored securely in accordance with the ethical principles of the Social Work profession.

4.8 Methods of Data Analysis

In general the researcher examined the collected raw data using many ways of interpretations in order to find linkages between the research outcomes and research questions. Collected data were coded using the specified indicators and responses from questionnaire were combined. The researcher also crosschecked these data with the data generated from interviews in order to enhance the validity of the research findings. Finally, the collected data was analyzed thematically and looking for similarities and differences in the data and comparing them qualitatively. The findings were related with previous research outcomes in order to come up with a more comprehensive analysis.

Regarding analysis on understanding the nexus between proceeds of crime and predicate offences, questions are indicated on the questionnaire regarding respondents' understanding towards human trafficking and smuggling migrants as predicate offence to proceeds of crime. This answer is examined to understand their consistency by the subsequent question, then findings of the first process is interpreted in relation to the data collected from the interviewees. Convicted cases are discussed whether confiscation of criminals' property or prosecution on money laundering in relation to legal documents in the third process. Finally, combining all interpretations the overall understanding of informants are summarized.

As far as analysis on patterns of human trafficking and smuggling of migrants is concerned the first phase was conducted by detecting how informants explain their process. What was their plan or expectation? Whether they had travelled with full consent, this in relation to what they had met at the middle of the process or at the destination country in comparison with the initial promise: such as the working hours and rest periods at destination country, salary, follow up by agencies, passport retention, withholding of wages. The findings were discussed in relation to the data gathered from governmental and nongovernmental organizations and literatures.

Chapter five

Data Analysis and Discussion

The chapter discusses the major findings and analysis. It consists of three sections. The first part deals with the patterns of human trafficking and smuggling migrants. The next part discusses the extent of criminals' illegal profit generated from these crimes and the third and the main part of the study discusses understanding of law enforcement employees and judges on human trafficking and smuggling of migrants as predicate offence to money laundering.

5.1 Patterns of Human Trafficking and Smuggling of Migrants

5.1.1 Background of Respondents

To explore the process by which migrants were sent legally or illegal manner semi structured interview was conducted with 20 respondents. Information was collected from 18(only one male) returnees, one official from MoFA and one interviewee from nongovernmental organization.¹²³ Out of the total migrants, 3 victims had used land transportation and the rest 15 had travelled via Bole Air -Port.¹²⁴

¹²³ 22 (21Femal and one male) returnees are interviewed out of that responds of four respondents from the Good Samaritans shelter are dropped when the researcher realized they weren't well recovered from mental disorder.

¹²⁴ See table 5.2

Table5.1 Indicators of Human Trafficking and Smuggling of Migrants

Elements of Trafficking in person(Palermo definition)	Indicators.	Elements of smuggling migrants(Palermo definition)
The recruitment, transportation, transfer, harboring or receipt of persons	-Forced recruitment -initiation of process	migrant smuggling ends with the migrants' arrival at their destination,
trafficking which includes threat of or use of force, deception, coercion, abuse of power or position of vulnerability	- awareness before departure, - consent, -challenges at the middle of the process, working hours and rest periods at destination country, Passport retention by employers,- Withholding of wages,- Sending migrants back home empty	Consent-migrant smuggling, while often undertaken in dangerous or degrading conditions, involves consent.
Profits are derived from exploitation: forced labor or services,	Doubt bondage	profits are derived from the transportation of facilitation of the illegal entry or stay of a person into another county

Source: UNODC web site

Table 5.1: In line with the Palermo Protocols definition of the crimes, this table shows major indicators. Using these indicators challenges of respondents have been detected that later help to categorize whether facilitators committed crime of human trafficking or smuggling of migrants.

Table 5.2.Facilitator and Transportation

Facilitator	Transportation		
	Bole Air port	Land	total
Licensed agencies	6		6
Illegal broker or other illegal facilitators	9	3	12
Family/individual			
Total	15	3	18

Source interview data

Table 5.2 depicts the facilitators and transportation through which migrants have traveled.

Twelve of the respondents (66.7%) or two-thirds have traveled facilitated by the illegal brokers and this shows illegal facilitators highly involved in these crimes.

5.1.2 Returnees Explanation

To explore the patterns of the crimes are discussed in two phases. In the first phase elements of the crimes are captured first from their explanation then the finding is discussed with the experience of two government and non government informants. Then findings from the first phase are discussed in relation to literatures and other documents and law enforcement information.

There are several causes that push migrants to travel out of their home country. Generally there are push factors locally and pulling forces from destinations. These being the general causes, other form such as deception is considerable. Some cases of deceptions are presented hereunder. Based on indicators set in table 5.2 respondents’ explanation is summarized as follows. A total of 14 returnees expressed directly or indirectly that they are not aware of the situation of their

process rather they had been deceived by their facilitators.¹²⁵ Ten out of this total number had processed through the illegal brokers or illegal facilitators and the remaining 4 returnees had used licensed agencies to travel from Ethiopia. Most respondents of this group explained identically regarding the situation they were in and they were told by their facilitators as if the situation is better in relation to salary, working condition and other expectations. Besides some brokers cheated migrants at the departure.¹²⁶

Box 5.1. Deception Case at Destination Country in Relation to the First Agreement

I had traveled to Libya through Egypt in 2008. At the beginning of the process I was informed by the broker and agreed to work for monthly salary 200 USD but when I arrived in Libya my employer told me my salary is 100. Following this I was forced to work for 100USD. Moreover, I had engaged in longer working hours. Finally I escaped after one year without receiving even the new salary set by my employer. I went in need of support to Ethiopians who have residence permit there but, I wasn't successful. I came back home empty after one year. Now I am here at the Agar Ethiopia shelter.

Interview with a victim returned from Libya

Among the complaints 8 (one processed through legal and 7 through illegal) informants weren't paid 3-24 months' salary by their employer. In addition to that they weren't treated in accordance with the law of the destination country. Three of the victims' passport and other relevant documents were put out of sight by their employers or agencies. Six among informants realized that the illegal brokers who facilitated their process have connection with the agencies

¹²⁵ See box 5.1

¹²⁶ See box 5.2

responsible in processing them at the destination country; these agencies are owned partially by Ethiopian shareholders. Moreover, one male returnee from Yemen was kidnapped by Ethiopians who lived in Yemen in cooperation with other countries citizens. These kidnapers forced him to call their relatives telephonically to offer money for kidnaper's network.

On the other hand, 2 returnees travelled through the illegal brokers and 2 using licensed agencies believe that nobody cheated them. According to them, the only reason for returning back home is due to the cultural differences they experienced in their place of work and overload work that later led them to severe depression.

Box5.2: Deception Case at the Departure

I agreed with the broker, with other 7 migrants, to travel to Iraqi to be employed by one company, in 2009. Accordingly I finished my preparation to fly after I had settled all requirements including the fee. Surprisingly at the departure at Bole Airport the broker raised an issue that I might be employed as a housemaid. At that time I couldn't look for any other alternative rather I continued travelling. When I arrived in Iraqi the agency immediately sent me to a family house. Since then I began to get overwhelmed by feelings of unease and discomfort later had got mental illness, that is why I came back home and now I am rehabilitating at Agar Ethiopia shelter.

Interview with a victim returned from Iraqi

One interviewee informed that conflict emerged when she disagreed the request of her employer to marry an old man. Since then she suffered from different problems and as a result lost her

mind.¹²⁷ When victims planned to travel from Ethiopia to search for better life, the initial process they were engaged in seemed free from forced recruitment which indicates the reason why migrants agreed initially on the process in both illegal and legal ways. This shows that somehow consent is reflected. However, in most of the cases an element of deception is involved at the beginning of their process. Moreover, all informants, depending on their process or destination country, had faced difficult situations; such as salary withholding, document retention and overload work at the destination countries and many other problems. Even those who responded as not being cheated by their facilitators had similar case. One of these informants explained her situation that her employer wasn't allowing her fasting on Wednesdays and Fridays when she tried not to eat meat.¹²⁸

The interviewee from MoFA explained that the situation is worsening particularly for Ethiopian females who migrated from the rural areas suffer from trafficking as a result families are affected. Similarly a nongovernment informant says that; Ethiopian females are suffering from the crime of trafficking and said "I am the witness that significant migrants who had traveled to Middle-East faced severe problems; I don't see any difference whether migrants use licensed agencies or illegal brokers except relatively lower fee is charged by licensed agencies"¹²⁹ These indicators suggest almost all returnees are victims of trafficking.

¹²⁷ Interview at Good Samaritans with interviewee,15

¹²⁸ Interview at Agar Ethiopia with interviewee,11

¹²⁹ Interview with informant19

5.1.3. Law Enforcement Responses, Documents and Literatures

The recently compiled document by the MoFA (2013) shows about 25,508 male, and 395,683 female, totaling 421,191 persons have migrated from Ethiopia through licensed agencies or other legal ways between 2008 and 2013.¹³⁰ They are from different parts of the country such as: Oromiya 139,006, Amhara 130,846, Addis-Ababa 73,165, SNNPA 52,588 and the rest migrants are from other regions. On the other hand, the document indicates 4,000 migrants were deported from Yemen and Saudi Arabia within three months in 2013.¹³¹ In addition, the document also identified actors involved in operating these crimes. These are; Addis-Ababa based embassies, legal agencies, illegal brokers and transporters, investors, tourists, Ethiopians who have lived in the destination countries and kidnapers.

The MoFA document further indicates that 4000 migrants who were either victims of trafficking or smuggling, are deported within three months in 2013 alone. This clearly shows the extent of the problem Ethiopian migrants face. Moreover, information gathered from two nongovernment organizations also indicate a total of 500 migrants with similar situation have returned back to Ethiopia.¹³² Hence, it can be concluded that a majority of deportees are victims of trafficking. In relation to mental problem, the researcher has seen at least five returnees who have lost their mind during the interview session at Good Samaritans shelter. Furthermore, investigators emphasized that they encountered a significant number of migrants who returned back home lost their mind. Therefore, even those who responded that depression or mental problem emanated

¹³⁰ MoFA: Document compiled 2013.p14

¹³¹ Ibid, p.32

¹³² The number of returnees can be overlapped with the number stated by MoFA.

from cultural differences and overload work, can be related with deception which can be demonstrated as lack of awareness before their departure.

From the above data obtained from the sample of interviewees, the consequence of deception is clearly seen. This theme coincides with the study by IOM, as indicated in chapter two describes victims of trafficking are deceived by brokers through providing false promises.¹³³ Almost half of the interviewees though were subject to cultural difference and isolation from family, complained about overload of work which was the cause of stress and anxiety. And such discontent and anxiety further resulted in apprehension by their respective to send them back home without paying their salary. Similarly IOM indicates that salaries may never be paid to victims in the Middle-East.

Apart from this, the compiled document by MoFA indicates that the main technique that traffickers used to exploit migrants at the destination or at the middle of the process who travelled legally through Bole Airport, is retention of migrants' legal travel documents.¹³⁴ The research conducted by ILO also describes that the incidence of trafficking in persons from Ethiopia occurs within a wider context of regular and irregular migration.¹³⁵

Among the interviewees 15 had travelled to Middle-East countries where victims faced harsh circumstances and returned home losing their mind. In relation to this a study conducted by IOM specifies 130, 000 Ethiopian women and children have migrated to the Gulf-states as vulnerable

¹³³ Refer chapter two page 24

¹³⁴ MoFA :compiled document p.30

¹³⁵ ILO, 2011, trafficking in persons overseas for labour purposes: p.75

to trafficking.¹³⁶ Although the study samples of victims don't represent all migrant routes, IOM reveals that there is a tendency that migrants travelling to Republic of South Africa (RSA) are more vulnerable to victims of smuggling particularly at the departure.

Migrants also face difficulties at the middle of the process outside Ethiopia. Notably, migrants who traveled through land transportation are more vulnerable to physical and psychological problems. A returnee from Yemen indicates that for the purpose of generating illegal profit, Ethiopians and other foreign citizens are involved in kidnapping migrants who travel through the route from Djibouti to Soudi-Arabia.,¹³⁷ In relation to kidnappers, 2 investigators from Diredawa, 2 from Addis-Ababa and 3 from Oromiya asserted that this type of crime has become common for migrants who used this route. An investigator from Oromiya indicated that the Oromiya investigation team had arrested a criminal member of a network while he attempted to withdraw money from bank in Addis- Ababa on behalf of the kidnappers, for releasing a kidnapped person in Yemen. An investigator from Diredawa said that kidnappers cost 7000-30000 Birr by kidnapping and forced migrants to call their relatives telephonically.

Literatures show migrants who use to travel to RSA are exposed to traffickers at the middle of their journey. Therefore migrants who travel through land transportation are more vulnerable to varieties of abuse at the middle of their process in addition to the challenges that they face at the destination countries.

Both types of crimes overlap on the process similar to the sample case study that shows an element of consent at the initial process. Even though the definition of migrant smuggling points

¹³⁶ Indicated on chapter two page 22

¹³⁷ Interview conducted at Good Samaritans with interviewee 14

those migrants who are often subjected to in dangerous or degrading conditions, this research concludes from the sample of expressions and other documents that the majority of Ethiopian migrants are certainly victims of trafficking.

5.2 Range of Illegal Profit Generated from/Trafficking/Smuggling of Migrants

5.2.1 Returnees Charged by Criminals

To estimate criminals’ profit questions were raised to 18 returnees informants regarding the amount of money they paid to their facilitators and whether the fee covered all transportation and other costs in relation to the whole process. Responses show 6 respondents paid 4000ETB or above to licensed agencies. However, Art 2(1) of the Employment Exchange Proclamation defines “private employment agency” means any person, independent of government bodies, which performs any one or all of the following employment services without directly or indirectly receiving payments from workers.¹³⁸ Moreover an informant from a nongovernmental organization said that migrants’ fee to licensed agencies is relatively lower than from illegal facilitators. The following table depicts this.

¹³⁸ Proclamation No.632/2009, Art, 2(1)Employment Exchange Services Proclamation

Table 5.3 Returnees' Fee

Migrants Rout	Process ¹³⁹	Range ETB			No. respondents
		Below 4,000	4,000-7000	Above 7,000	
Traveled to Middle-East through Bole Air-port	licensed		5	1	6
	illegal		4	5	9
traveled through border Metema to Sudan or via Sudan to Libya/ Europe or from Sudan to Israel	licensed				
	Illegal		2		2
Through border to Somalia ports or Djibouti to Yemen then to Middle-East	illegal	1			1
Through border to Kenya then to RSA	illegal				
total		1	11	6	18

Source: Interview data

From the table 5.3, it is possible to see that an amount of above 4000ETB was paid by the returnees for traveling to the destination country. Two respondents paid 4000 ETB to cross the border to Sudan through Metema. A returnee from Yemen paid 3000 ETB through Djibouti. In addition to that, from the response of the informants it was discovered that 6 returnees spent minimum of 2,000ETB for medical and other expenses before their departure which is an additional cost.

¹³⁹ Licensed belongs to licensed agencies while illegal to the brokers or other illegal facilitators

5.2.2 Migrants Fee from MoFA Compiled Document (2013)

The compiled data doesn't show detail fee paid by migrants but, it indicates that migrants required paying 3000-17,000 ETB including transportation and other expenses to agencies or brokers to travel outside Ethiopia. Moreover migrants paid 1000-7000 ETB to Somalia ports/Bosasso port to Saudi-Arabia while migrants paid 3000 ETB through Metema to Sudan and if migrants decided to continue from Sudan to Lebanon they will have offer 3 months' salary as doubt bondage.

3.2.3 Law Enforcement Informants Response on Migrants' Fee

As far as the issue of illegal profit is concerned, several questions related to migrants' type of transportation used, routes and fee were asked. The data reveals the range of fee paid by migrants as per the table given below: ¹⁴⁰

¹⁴⁰ According to law enforcement professionals' information, migrants pay minimum range of money to arrive at the first destination. This implies migrants may settle the first payment reach Sudan, those who travel from Sudan to Israel or Europe they can be charged additional money. In the case rout to Djibouti or Somalia ports, once migrants arrived at Djibouti/Somalia ports, then from Djibouti cost will be incurred depending on the smuggler or trafficker. This is also true the rout to RSA.

Table 5.4 Range of Migrants Fee from Law Enforcement Professionals and Judges

Migrants Rout	Migrants minimum and maximum fee	frequency
Traveled to Middle-East through Bole Air-port	3,000-7,000	4
traveled through border Metema to Sudan or via Sudan to Libya/ Europe or from Sudan to Israel	3,000-10,000	5
Through border to Somalia ports or Djibouti to Yemen then to Middle-East	1,000 -10,000	9
Through border to Kenya then to RSA	40,000-100,000	10
Through Bole Air-port to Cuba - America	150,000-250,000	1

Source: data from questionnaire and interview

Apart from the above range indicated on table 5.4, a Federal Police respondent informed that payment to illegal facilitators might be increased to 15000 ETB. According to him 2 migrants paid 10000-15000 ETB to illegal brokers to travel via Bole-Airport. Six among the10 informants who answered the range of fee to RSA indicated that other migrants’ personal expense on the process is included in the total fee.

5.2.4 Estimating the Range of Payment

Estimating illegal profit generated from crimes of human trafficking and smuggling of migrants is problematic for many reasons. The main reason is the clandestine nature of the crimes and the disparities associated with regard to issues surrounding migrants’ departure. Such limitations arriving at a valid range of payment is difficult but; for the purpose of the research, combining the data collected from different sources and an estimating average of migrants’ fee charged by facilitators is relevant. Accordingly the research estimates uses simple percentage frequency. The

fee that is indicated by majority of informants was taken to calculate every route’s average money paid by migrants. Based on this assumption the average fee of 5 returnees who traveled to the Middle-East through legal agencies is 5500ETB. On the other hand, if one takes into account the minimum payment of (7000ETB) paid by 5 other returnees who used illegal facilitators; then the average amount paid by migrants to travel to Middle-East through legal or illegal ways is 6300ETB.¹⁴¹

Table5.5: Combined Average Fee (ETB)

Migrants Rout	Average fee			
	returnee s	Law enforcement	MoFA, data	Combined average. ¹⁴²
Traveled to Middle-East through Bole Air-port	6,250	5,000		5,625
Traveled through border (Metema) to Sudan or via Sudan to Libya/ Europe or from Sudan to Israel	4,000	6,500	3,000	4,500
Through border to Somalia ports or Djibouti to Yemen then to Middle-East	3,000	5,500	4,000	4,150
Through border to Kenya then to RSA		70,000		70,000
Through Bole Air-port to Cuba - America		200,000		200,000
There is also a rout from through Thailand to America				

Source: combined data from all respondents

¹⁴¹ Although the fee to Middle-East varies depending on the economic benefit, the research considers as one rout.

¹⁴² The researcher alone is responsible for this estimate

The combined average from all information sources reaches 5600ETB. Therefore using simple average calculation migrants will have to pay 5600ETB on average to legal or illegal facilitators at the departure to travel to Middle-East.¹⁴³ Moreover, migrants also need to cover additional money for medical and other relevant documents that costs minimum of 2000ETB. The other aspect that should be noted is that migrants to travel to Sudan will have to pay 4500ETB to illegal brokers at the departure while those whose destination is Yemen through Djibouti or Somalia ports need to pay 4000ETB. Also if such persons desire to continue from Yemen to Saudi-Arabia then they will be required to pay additional money depending on the type of transportation and facilitators. The same is true for those who wish to travel ahead from the Sudan to other destinations

From the above, it is clear that migrants are required to pay 70,000ETB to travel to RSA; this payment can include migrants' other expenses. According to IOM calculating the full economic value of smuggling from the horn of Africa to RSA is difficult because migrants are requested to pay additional money by smugglers at the middle of the process. Nevertheless, as indicated on chapter two the study estimates illegal migrants' average fee charged by chief smugglers is \$1,750 to \$2,000, to travel to the RSA. The research conducted by ILO estimates that migrants pay up to 40,000ETB¹⁴⁴ to travel to RSA to smugglers which is the same amount to the minimum fee that is indicated by law enforcement professionals and judges.

¹⁴³ See table 5.5

¹⁴⁴ ILO, 2011, P:45, trafficking in persons overseas for labour purposes

The new estimate of migrants' payment to travel to RSA is somehow close to the ILO and IOM estimates. One informant also mentioned a route to America through Cuba and the cost for that is 200,000ETB.

Box5.3: Victim's higher fee from Good-Samaritans.

I had traveled to Wollo with one victim to assess the situation with her family. I met her father and he explained me what was happened about the process for sending the victim to Saudi-Arabia. The father once he planned to send his daughter communicated a broker who lived around, that the father doesn't have money, because of that father agreed with the broker all the cost 10,000 ETB to be covered by the broker as doubt so that the father will refund 20,000ETB including interest after one year. The broker according to the agreement had processed all and the victim arrived in Saudi-Arabia. Unfortunately she returned back after 5months but, father had paid 20,000 selling three cattle. Father again decided for the second time to send the same migrant and agreed with the same broker at a cost 9000ETB by the same calculation father will refund doubled. Very sadly she came back lost her mind after 3months. Good Samaritans facilitated to get medical treatment at the Amaneal Hospital. That is why I went with her to Wollo when she recovered. Anyways I know many victims paid above 10,000 particularly victims migrated from North Wollo.

Interview with the Administration head at Good Samaritans

The average payment could be higher depending on the departure area or type of facilitators.¹⁴⁵

A federal police investigator indicated that he knew 2 migrants paid up to 15000 to illegal

¹⁴⁵ See box 5.3

brokers. Similarly IOM describes that although the destination country appears to be the most significant determinant, payments tend to be higher when negotiations are mediated by a facilitator, who earns a commission on the deal.¹⁴⁶ The above discussion show migrants endanger their lives, besides being victims of trafficking/smuggling are paying much money to criminals for nothing.

To conclude regardless of the estimate or size of money, Ethiopian traffickers/smugglers are generating illegal profit from victims of such crimes both at the departure (in Ethiopian) and at the destination country. Although it is difficult to calculate the extent to which the illegal profit could be laundered in the process, Ethiopia has already issued a law to the effect that traffickers or smugglers' properties derived originally by conducting crimes of trafficking/smuggling of migrants and through any such process are liable to be confiscated.

5.3 Law Enforcement Professionals and Judges Understanding

5.3.1. Background of Respondents

Data to explore this understanding was collected through questionnaire and semi structure interview. Twenty three such questionnaires were distributed to law enforcement professionals and judicial officials who are currently working at Diredawa, Awassa, Mekelle and Bahr-Dar, out of whom 21 have responded. In addition to that semi- structured interview was conducted with 8 investigators (3 federal police investigators in Addis-Ababa and 4 investigators from Oromiya) and one head of security and administration office on SNNPRA.

¹⁴⁶ See chapter two page 28

Table5.6 Law Enforcement Professionals and Judges Working Experience

Working experience	No respondents		Total
	Through questionnaire	interviewee	
From 6 months to 3 years	7		7
From 3 to 5 years		1	1
From 5 – 10	4	1	5
Above 10 years	8	6	14
Not mentioned	2		2
Total	21	8	29

Source: data from questionnaire and interview

Table 5.6 presents the work experience of the law enforcement professionals and judges. From this we can see that the respondents have some work experience in matters related to trafficking and smuggling. Nineteen (70.37%) of them have more than five years work experience which explains that they can explain cases which they have experienced.

Table 5.7 Law Enforcement professionals and Judges Educational Background

Answer to the general question	Below diploma		diploma		Degree & above		Not specified		total
	Understand the nexus of the crimes	not	Understand the nexus of the crimes	not	Understand the nexus of the crimes	not	Understand the nexus of the crimes	not	
questionnaire	1	2	6	3	3	4		2	21
interviewee	-	-	1	3	1	3			8
Total1	1	2	7	6	4	7		2	29
Total2	3		13		11				
100%	10.34		44.82		37.93			.067	

Table 5.7 depicts the educational background of the respondents who are involved in law enforcement and judging. This shows that sufficient number of the respondents have diploma or above academic back ground.

On the other hand the Table describes that only 12 (41.38%) of the respondents understand the nexus between the crimes. This shows that significant number of respondents is not aware of the nexus of the crimes. This reveals that there could be mixing during response by the respondents.

5.3.2 Understanding on Nexus Between Money Laundering and the Predicate Offences

The questionnaire in relation to this specific interest had two questions to check whether the professional understand clearly that human trafficking and smuggling of migrants are sources of proceeds of crime which can be laundered in the process. The first question required respondents to answer whether they clearly understand that both crimes are predicate offences to laundered financial or materials benefits. The second question requires detail information which includes figuring out investigated or prosecuted or punished cases and confiscated properties in relation to money laundering. Eleven respondents answered the first question as they didn't understand but, 10 respondents answered they have clearly understood.¹⁴⁷ For the second question 5 out of the 10 provided detail information similar to the cases and penalties which is already stated on the predicate offence(including the fine money passed over trafficking).

An interview was conducted by inviting respondent to explain nexus between money laundering and the predicate offence particularly with human trafficking and smuggling of migrants. By capturing their overall understanding, 2federal police interviewees explained how the two crimes

¹⁴⁷ See table 5.7

are serving as criminals' illegal profit.¹⁴⁸ The other 6 respondents answered that they have never come across with this idea and they are not even aware of the AML law.

To unpack possible misunderstanding, the analysis was conducted using three steps. The first step depended on the response from the questionnaire respondents understanding towards human trafficking and smuggling of migrants as predicate offence to proceeds of crime. The second step, after classifying the level of understanding, goes on interpreting the responses with the data collected from the interviewees who have better academic background, exposure and their working experience in relation to crimes. The third process dealt with assessing convicted cases in relation to confiscation of criminals' property or prosecution on money laundering. To clarify this supporting data were collected from relevant government authority documents, literatures.

5.3.2.1 Understanding of Respondents from the Questionnaire

Among 21 respondents 10 answered that crimes of human trafficking and smuggling of migrants are sources of money laundering. Five specified that traffickers cases as money laundering cases. Those cases are already mentioned in other question as punished cases with rigorous imprisonment and fine money crime in which traffickers committed crimes of trafficking. One can simply assume that this understanding could come thinking the already fine birr is considered as laundered and confiscated money.

This clarification is different from the case of confiscation of laundered money. Hence one can conclude that these respondents don't understand that smuggling/trafficking migrants can

¹⁴⁸ Ibid

generate proceeds of crime that later they got concealed through process and turned into legitimate property. The other four respondents didn't specify the encountered cases in practice this could be due to the fact that 3 of them have diploma or below academic back ground which caused them to have a lesser degree of understanding on the issue. Since these crimes are transnational they not only necessitate some experience but also require a good lot of academic understanding. Therefore it is difficult to consider these respondents are clear with the concepts. On the other hand, one judge out of these respondents answered in the consequent question that prosecutors didn't charge cases in relation to laundered properties. Regardless of the level, this answer by itself quietly reveals his understanding on how smuggling/trafficking of migrants is associated with money laundering.

5.3.2.2 Understanding of Respondents from Interview

Among the 8 interviewees 2 federal police one with 12 years and the other above 15 years work experience in investigating related cases explained the nexus between the fruits of crime which could be generated from crimes of human trafficking and smuggling of migrants. Based on the open ended question with these interviewees, the researcher came up with investigating that these have somehow similar understanding on the problem. They explained that as per the newly revised Ethiopian penal code in Article 784 states money laundering is punishable. However, regarding confiscation of properties, the law needs to refer other articles and decide whether it is an offence or not. In contrast, they weren't clear about predicate offences to justify whether trafficking/smuggling of migrants could be included. Nevertheless, when the new law was enacted they were trying to associate trafficking with money laundering. In fact many cases

related to trafficking in persons are investigated at the federal level. As a result, several criminals are punished by the court so far. Hence even though respondents were aware of it, they didn't investigate criminals' properties in relation to laundered property. To sum up, although they are well aware of the concept of money laundering, there is still a gap in interrelating the investigation process to criminals' illegal profit connected with money laundering.

Apart from these, in a discussion with all the 6 respondents it was verified that they never thought that human trafficking and smuggling of migrants are considered as sources of money laundering by the law of the country, even if some of them were not aware of the AML law. As mentioned earlier in terms of work experience and academic status all the interviewee possess have diploma or above and three out of them have first or second degree graduates. In addition four of them have worked for more than ten years in investigation and related areas. Four investigators are working in Oromiya (their head office is in Addis-Ababa) investigation team. One main inspector from Oromiya expressed that "had we been aware of this before, we would have achieved our task by far better than we have done in preventing our citizens from trafficking".

Finally in an attempt to compare and contrast findings gathered from respondents who answered regarding their understanding based on the questionnaire and the interviewee questions, it is worth noting that the Federal Police investigators are among the few with longer years of experience in the country. What is possible to learn from this is that, if such crimes aren't investigated with greater understanding of the problem at a federal level, how could other law enforcement professional who are entitled to investigate or prosecute cases at regional towns

across the country be expected to understand these cases clearly and discharge their duties accordingly? Taking this interpretation in mind, those who responded to the questionnaire declaring they understood the link between the proceeds of crime and the predicate offences with the lower academic status, is unacceptable.

5.3.2.3 Assessment on Convicted Cases

a/ Convicted Cases from MoFA Compiled Document

In order to assess what seems the conviction of criminals whether the conviction is related to money laundering or simply with crime itself, gathering information from responsible organization was important. The compiled data by MoFA presented in table 5.8 below shows that 27 criminals are punished by the court within a span of three years (2011-2014). The punishment period by the law is minimum of 4 –maximum of 39 years.

Table5.8. Sample of Punished Cases Compiled by MoFA

No	No of criminals	year	Type of case	conviction
1	1	2003/2010/11	committing an offence of illegal transfer of people from Ethiopia	10 years rigorous imprisonment and fine 5000b
2	2	2004/2011/12	>>	10 years rigorous imprisonment and fine 8000b
3	1	2003/2010/11	>>	6 years rigorous imprisonment and fine 1000b
4	2	2004/2011/12	>>	5 years and 6 months rigorous imprisonment and fine 5000b

5	1	2004/2011/12	>>	6 years and 6 months rigorous imprisonment and fine 500b
6	2	2004/2011/12	>>	5 years and 6 months rigorous imprisonment and fine 1000b
7	1	2005/2012/13	Committing an offence of illegal transfer of people from Ethiopia.	6 years and 6 months rigorous imprisonment and fine 4000b
8	1	2004/2011/12	>>	8 years and 6 months rigorous imprisonment and fine 3000b
9	1	2003/2010/11	>>	10years rigorous imprisonment and fine 15000b
10	1	2003/2010/11	>>	8years and 3 months rigorous imprisonment and fine 3000b
11	1	2003/2010/11	>>	6 years and 3 months rigorous imprisonment and fine 7000b
12	1	2003/2010/11	>>	4 years and 1 months' rigorous imprisonment and fine 500b
13	1	2003/2010/11	>>	6 years and 3 months rigorous imprisonment and fine 100b
14	1	2003/2011/12	>>	6 years rigorous imprisonment
15	1	2003/2010/11	>>	6 years and 6 months rigorous imprisonment and fine 300b
16	1	2003/2010/11	>>	5 years rigorous imprisonment and fine 1000b
17	1	2003/2010/11	>>	10 cases 39 years rigorous imprisonment and fine 25000b
18	1	2003/2011/12	>>	8 years rigorous imprisonment and fine 25000b
19	4	Not mentioned	illegal transfer and cause of death to 42 migrants at the process in Tanzania	7-12 years rigorous imprisonment and fine 4000-7000b
20	1	Not mentioned	This criminal has deceived and agreed to send 3 people to Europe and 3 people to middle- east and received 170000-200000	16 years rigorous imprisonment and fine 20000b.

			per person and 15000-30000 respectively	
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b/ Law enforcement and Judicial response Regarding Convicted Cases

The data collected from both the questionnaire and an interview reveals that except 5 cases that were punished for 2 months to 1 year imprisonment the rest were punished with more than a year. In addition to that since 2009, around 400 cases are investigated by the Federal Police Investigation unit; out of this number 200 cases were punished by the court with most of the cases above one year rigorous imprisonment. Exceptionally in one case who was accused in seven cases was sentenced to 49 years rigorous imprisonment and a fine of ETB78000.

c/ SNNPRA report paper

The Regional Administration report paper shows that the Administration identified 127 brokers From Kembata and Tembro zone, 27out of these brokers were brought to court and punished from 5 to25 year’s rigorous imprisonment. Similarly from Hadiya Zone 144 brokers are identified, 59 out of the brokers are punished from 5 to 15 years rigorous imprisonment.

The above mentioned convicted cases need to be assessed whether they can serve as predicate offences to money laundering. Concerning the Proclamation No. 657/2009 regardless of the amount of money involved on the crimes those punished in relation to Art 243 or other related crimes which are punished with rigorous imprisonment for ten years or above should be considered as predicate offences. However Proclamation No. 780/2013 clearly shows that any

offence punishable for at least one years' imprisonment and generates proceeds of crime can be considered as a predicate offence.

On the other hand crimes of human trafficking and smuggling of migrants are punishable above 5 years imprisonment by the Ethiopian criminal code under Art 243, 596, 597 and 598. Therefore traffickers or smugglers' properties derived originally by conducting crimes of trafficking/smuggling of migrants and laundered through such process are liable to be confiscated. From this legal coverage, most of the cases mentioned in the above statistics can be liable to be prosecuted with money laundering offence in addition to the fine passed on the crimes themselves. For instance one case which indicated in table 5.8 No 20, the punished criminal received 510,000 to 600,000 from 3 victims and 45,000 to 60,000 from 3 other victims but the penalty is imprisonment and fine money. This needs some investigation whether the money is laundered in the form of properties like house, vehicles or other properties. By investigating in such manner the property accumulated through such illegal act must be confiscated.

The assessment shows 2 from the federal Police and one judge from Dire Dawa have general understanding on concepts of money laundering and its predicate offences. However none of these informants conducted investigation or punished cases by considering human trafficking and smuggling of migrants as predicated offences. The overall assessment conducted on the above three processes illustrates the existence of wider gap in understanding how smuggling/trafficking migrants as sources of money laundering needs address properly.

Although combating of money laundering as a crime needs cooperation and information exchange among law enforcement entities including FIC it is the investigators who primarily have their own role to play as the practice has always been to conduct such cases by investigation team across the country.

Conclusions and Recommendations

General Conclusions

It can be concluded that victims of trafficking are facing twofold difficulties. The first one that needs urgent attention is that significant number of Ethiopian migrants particularly females suffer from severe problems and as a result endanger their lives. The other problem is whether traffickers or smugglers involved in facilitating migrants process at the departure, it is the victims and their families who are losing their financial or material resources. Owing to the challenge faced by both the victims and relatives in particular and the country at large, the situation needs to be reverted. Unless the problem is reverted the socio economic impact to the victims is worst and the country will be in harsh human concession.

The other point is that traffickers or smugglers are generating illegal profit by conducting activities of trafficking/smuggling of migrants. This accumulated profit is liable to be confiscated on both Proclamations that suggest courts can pass confiscation of property on convicted criminals of money laundering or financing of terrorism or predicate offence but, the law enforcement professionals and judges have had wider gap in understanding the nexus between the predicate offences; crimes of human trafficking and smuggling of migrants and money laundering as the process of converting the proceeds of crime into legitimate property that needs proper awareness creation on the issue, so that, it will contribute to preventing the crimes in general and human trafficking and smuggling of migrants in particular. The laws enforced by the land are one thing, but much more effort is needed to revert such a massive outflow of citizens which will counter act negatively to the development initiatives of Ethiopia.

Specific Recommendations

- The law enforcement entities who are mainly investigators have been investigating reported cases by victims themselves and their relatives. Therefore creating awareness on these experts is indispensable by way of workshop or training. In addition to punishing criminals for committing crimes of trafficking/ smuggling migrants, confiscation of their ill-gotten property is vital whatever the size of the money or property is. Government institutions such as the Ministry of Justice and FIC should take the lead on awareness creation tasks.
- There is a need of cooperation, follow up, and identify Ethiopians who are living and are involved in this criminal activities across the dangerous land and sea routes in accordance with the law of the country particularly in implementing Art 29(3) c) of the new proclamation. This Art also considers actions committed outside the country. These may include Ethiopian embassies, Federal police (interlope), FIC and other institutions can coordinate the effort.
- To a greater contribution on averting the problem it is important first to spot the targeted rural areas and urban towns that are prone to such migrations and then implement holistic approach on awareness creation at grass root level. These may encompass involvements of religious leaders, local administrations and schools.
- There is no significant difference whether victims have used licensed or illegal brokers. Therefore the regulatory body (mainly the Ministry of Labour and Social Affairs) requires immediate follow up and take proper measures on those legal agencies violating the law of the country.

- Financial institutions particularly banks or money transfer agencies should employ proper mechanism to detect transactions related to traffickers/smugglers and report suspicious transactions to FIC.
- Besides, what is important is also to strengthen labour agreement, with the destination countries, designed to protect citizens that includes minimum wage, mandatory insurance and outline workers' rights.

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