LISBON SCHOOL OF ECONOMICS & MANAGEMENT
UNIVERSIDADE DE LISBOA

MASTER

INTERNATIONAL ECONOMICS AND EUROPEAN STUDIES

MASTER´S FINAL WORK

DISSERTATION

STATE OF THE ART OF MONEY LAUNDERING AND CORRUPTION MITIGATION - THE EXAMPLE OF BRAZILIAN COMPLIANCE WITH INTERNATIONAL STANDARDS

MATHEUS DE PAULA COSTA

NOVEMBER - 2020

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"Robberies can only be carried out in powerful democratic nations where government is concentrated in a few hands, where the state is responsible for carrying out huge enterprises"

Alexis de Tocqueville, De la Démocratie en Amérique, 1835 (own translation)

To all my friends, family, co-workers, and my supervisors.

GLOSSARY

AML – Anti-money Laundering.

CDD – Customer Due Diligence.

COAF – Conselho de Controle de Atividades Financeiras (the Brazilian financial intelligence unit).

COPEI – Coordenação-Geral de Pesquisa e Investigação da Secretaria da Receita Federal do Brasil.

DNBFPs – Designated Non-financial Businesses and Professions.

FIU – Financial Intelligence Unit.

GAFI/FATF – Financial Action Task Force.

GDP – Gross Domestic Product.

IMF – International Monetary Fund.

INTERPOL – International Criminal Police Organization.

KYC – Know Your Customer.

ML – Money Laundering.

PEP – Politically Exposed Persons.

ABSTRACT, KEYWORDS AND JEL CODES

Money laundering and corruption are deeply connected because the proceeds from corruption must be laundered and integrated into the market. Those crimes also have an international dimension. In the absence of international cooperation and standards, the process of anti-money laundering and corruption mitigation is at risk in domestic jurisdictions. This thesis presents the state of the art in this field, namely, how anti-money laundering policies can prevent corruption, based on the example of Brazilian jurisdiction in its application of international standards. Brazil gained attention with corruption cases as "Mensalão" or "Lava Jato", which affected how it was perceived internationally.

We first analyse the concepts and contexts of corruption, money laundering, and compliance. We also analyse several referenced documents as Conventions and the Forty recommendations as these are international codes to criminalize money laundering. These documents allowed the development of anti-money laundering in a logic of compliance. Then, we use Brazil as a practical example to illustrate how standards can be implemented, as well as the associated challenges. By highlighting importance of a culture of compliance, this thesis contributes to the understanding of how international standards can help a country overcome corruption and to explain what can fail in the process of mitigation as a result of national political and societal behavioural challenges.

KEYWORDS: Brazilian compliance, Compliance, Corruption, Money Laundering.

JEL CODES: F53; G38; K42.

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STATE OF THE ART OF MONEY LAUNDERING AND CORRUPTION MITIGATION - THE EXAMPLE OF BRAZILIAN COMPLIANCE WITH INTERNATIONAL STANDARDS

By Matheus Costa

MONEY LAUNDERING and corruption are connected because the proceeds from corruption must be laundered and integrated into the market, with an international dimension of action. This thesis presents the state of the art in this field, how anti-money laundering policies can prevent corruption. We first analyse the concepts and contexts that allowed the development of a logic of compliance. Then, we use Brazil as a practical example. By highlighting importance of a culture of compliance, this thesis contributes to the understanding of how international standards can help to overcome corruption and to explain what can fail in mitigation.

1. INTRODUCTION

One of the aims of science is to understand the world surrounding us. After reaching some of this understanding, we can criticize, create, and discover solutions for problems that human beings face. From my point of view, with increasing levels of integration in the global economy, it is relevant to analyse the phenomenon of "crony capitalism" and its negative influence through the creation of market inefficiencies.

The present work initially intended to understand the problem of corruption and how to overcome it. In the case of Brazil, the interest arose with the famous "Mensalão" and "Lava Jato" criminal scandals. However, the limits of moral precepts are hard to define. Different jurisdictions[1] will have distinct views. Hence, this work evolved to assess how financial compliance can mitigate the risks of money laundering and consequently mitigate corruption risks.

To illustrate our thesis, we look at the legal jurisdiction of Brazil. The Brazilian example is relevant since Brazil was even called an "exporter of corruption" (Rossetto, 2016), associated with the most known corruption scandals in the first two decades of the 21st century. A jurisdiction where this kind of issue occurs is where we can understand better how international standards can effectively work.

[1] I have chosen the term jurisdiction to refer to any state, country, or region with relevant autonomy, which can decide or apply measures of anti-money laundering according to international standards in their respective space.

When we talk about money laundering, people usually think about political corruption. However, it has a broader scope. Indeed, money laundering also comes from different illicit activities, such as gambling, traffic, or terrorism. In this work, the analysis will be more focused on political money laundering mitigation (for this reason, we develop the study of corruption). However, it must be pointed out that the concepts of corruption and money laundering are often deeply connected because the proceeds from corruption have to be laundered and integrated into the market.

It is also important to note that the fight against money laundering is not an isolated domestic problem. It often has an international dimension. If the international community does not strive to cooperate and apply international standards in domestic jurisdictions, the process of anti-money laundering prevention, mitigation, or the sanction is at risk (Yepes, 2011). In 1994, it was estimated that 2% of global GDP has proceeded from money laundering (Quirk, 1997, 8). In 2019, it was estimated that at least 1,5 trillion USD goes to corruption, and 2% to 5% of the World's GDP is laundered from illicit activities (Maragano, Knupp, Borba, 2019, 6). So, this is a global problem impacting international relations, the economy, and the rule of law. In the case of Brazil, it affects the international perception of the country, since according to Transparency International, in 180 countries, Brazil ranks in 106th place on the transparency list of 2019. Even, on a scale from 0 to 100 (where 100 means full transparency), Brazil only scores 35, below the average score of 43 (Maragano, Knupp, Borba, 2019, 6; Arif, Khan, Waqar, 2020, 3; Transparency International, 2020, 2-13).

The objective of this thesis is to present the state of the art in this field, how anti-money laundering policies can prevent corruption, based on the example of Brazilian jurisdiction in its application of international standards.

After the introduction, there is a chapter for the methodological choice. For this work, we have used the critical methodology. Chapter 3 is the most developed chapter, where we revise institutional and historical concepts. In analysing how the concepts of corruption and money laundering have arisen, we were able to understand the need for international standards that are in place. We analysed several documents as Conventions and the 40 recommendations, insofar they are the most referenced roots as codes to criminalize money laundering and the base for preventing those crimes (FAFT, 2012-

2019, pp. 10). In chapter 3, there is a section on the development of anti-money laundering in the light of compliance. Later, in chapter 4, we look at what is in place in the Brazilian legal system and based on the critical methodology we compared its effectiveness through several perspectives. The analysis goes up to 2019, although we mention steps made in 2020, with law no 13974/2020 and BCB Circular number 3978/2020. Considering that this is a recent field of study, this thesis is not a case study on Brazil. The country is used as a practical example.

2. METHODOLOGY

The critical methodology aims to connect qualitative and quantitative methods through critical thinking. It is a more question-driven approach than a method-driven, like Popper, Feyerabend, and Gadamer showed that positivism and rigidity of methods not always lead to scientific advancement. Examples are from scientists and thinkers who dared to doubt universal truths and methods, paving the way to discoveries in science. It does not mean that rigid methods do not deliver findings to science or boost the increase of knowledge, but to find answers guiding just by qualitative or quantitative methods in some cases do not deliver the best results. For example, the scope of this present work involves an area with a lack of information. Whoever is laundering money does not want to be discovered their methods or volumes laundered. An approach with a quantitative method can help to discover how countries are scored in a transparency ranking or about the application of international standards. But it cannot answer an obvious question that arises after those analyses in of the Brazilian example as, "Why a country like Brazil, which has third-generation laws still faces major corruption and money laundering cases?" or "Which is the concrete amount of money proceeding from illicit activities laundering?". Another example, the study of Yepes (2011) it is found that Brazil was in a similar position to many developed economies related to preventive measures against money laundering (Yepes, 2011, 33-65). However, Brazil ranks in the 106th out of 180 countries on the 2019's transparency list, according to Transparency International (2020, 2-13). So, in this field, the same laws do not match with the same results.

A qualitative analysis, for example, choosing a company involved in the scandal and analysing the way it got involved in corruption and money laundering practices can give good answers and develop new methods of preventing the same type of behaviour. However, as soon a new practice is discovered, it is put in place prevention measures of such behaviour, launderers also upgrade their action and develop new methods (Sullivan, 2015). Qualitative methods give insights for cases, but it is limited to that specific case, and the reflection made is based on a reconstructed human lived experiences (Yanchar, Gantt, Clay, 2005, 27–33).

However, the mere mix of methods, assuming the finding as an unquestionable truth will only lead to a limited conclusion, reintroducing the rigidity methodology that does

not give space to broader answers and defiant questions. Through historical examination, Feyerabend (1993) defended that progress in science constantly occurred when someone defied rigidity. If there is no space to defy, science can lose its innovative character. For example, the field of deep learning is still evolving and there's an example of critical methodology in the work of Martinez, Del Ser, Villar-Rodriguez et al (Yanchar, Gantt, Clay, 2005, 33–34; Martinez, Del Ser, Villar-Rodriguez, et al, 2020).

For this reason, the critical methodology is not a mix of methods or a single method. As defined, "the use of the term denotes a contextual and evolving theory of inquiry" (Yanchar, Gantt, Clay, 2005, 35). It demands a profound investigation and constant development and shift of strategies. In this work, already found data about the issue are used and findings are critically compared in a scarce information field, to get a better answer to our initial hypothesis and answer emerging questions. Therefore, a more flexible methodology can facilitate scientific advancement. Besides, the present work uses contributions from several disciplines as economics, political science, law, psychology, sociology, and international relations. The study of corruption and money laundering requires a multidisciplinary approach. It involves hidden information, gaps in legislation that turns possible to avoid compliance, understand why people do not comply with rules and ethics: how political regimes allow those bad practices and how the market is affected by it. The use of critical methodology combining findings from several disciplines in the scope of corruption and money laundering is reasonably a better approach to understand this complex problem and allows methodological pluralism (Yanchar, Gantt, Clay, 2005, 33-35).

3. LITERATURE SURVEY: MAIN CONCEPTS, INSTRUMENTS AND THEIR CONTEXTS

3.1. Corruption

Before the institution of the Rule of Law, where the state was personal property and the ruler was above the law, it was impossible to understand corruption. There were no limits between power and wealth, absolute power is, by its notion, not corrupt. With the creation of intermediary bodies that have the political power to oppose rulers (separation of power and consolidation of the civil society), the notion of separation of wealth and power (the distinction between governmental and private), led to the consolidation of the modern state and the fall of feudalism, plus the emergence of free markets and capitalism, the consolidation of money and tax, the rise of political parties (which compete for power), and the emergence of individualism and merit. All made it possible to start to think about good governance and transparency (Johnston, 2001, 13-16).

The notion of corruption has been changing over centuries and places, nevertheless with the advent of information technologies and globalization, it is increasingly important a system of governance that defines corruption (and by addition to money laundering). It is difficult to give a universal definition to a moral standard. It is easily associated with the moral limits of the relationship between wealth and power (Johnston, 2001, 11-12).

The major problem is that the political hierarchy legislates on the moral standards of society, defining to which extent is reasonable the relation between power and wealth, what can be considered as money laundering, and who is accountable for it. This can create dilemmas of fairness (Johnston, 2001, 13).

In non-secularized societies, the link between morality, power, and wealth are very close, and where the power is centralized, as in autocracies, it is very improbable citizens care (or are allowed to care) about corruption and money laundering. With secularization and fragmentation of society, different interests and agendas made people worry about benefits that are not equally shared. Corruption became more an individual behaviour than societal behaviour (Johnston, 2001, 13).

A general and precise definition of corruption could be the judgment of a behaviour that does not respect the limits between wealth and power, but to classify the limits is difficult. It is possible to argue that it is the abuse of public office, working against public interest or benefit, moral standards or social and cultural perceptions of the population in

time and place, or ideology. In the study of Ribeiro (2015), it is possible to understand corruption by ideology vision and political system. In Merida Convention, is constantly used the term “undue advantage” (Merida Convention, 2005). Also, some moral corrupt actions may be legal, not well specified or the letter of law is unable to describe which actions are considered corruption (Johnston, 2001, 17-18).

Also, inelastic demand, market distortions and other market failures as rent-seeking, price setters, cronyism, and monopoly can originate corruption and money laundering. However, it is difficult to define where the abuse of relation between wealth and power starts. An example of this is China, the wealth and political power are very associated and the way of doing business can easily lead to situations that in Europe are considered as cronyism (Johnston, 2001, 17-20).

New approaches suggest that corruption is a problem derived from politics (how processes of decision occur and are influenced). It can be considered as social and legal abuses to the public order for private benefit. Also, there are times in which something that is legally considered corruption can be a way of survival or a simple economic transaction (as in the Communist fall period) (Johnston, 2001, 20-25).

It is possible to say that exists a new corruption paradigm because of recent social and economic changes that affected politics such as globalization, liberalization, and information revolution. Those changes redefined the role of the state, the relation between wealth and power, and accountability (Johnston, 2001, 20-25). However, democratic governments, with the guarantee of civil rights and separation of powers, make possible transparent governance. Politicians and parties compete for power, and the system of re-election can constrain the greed for power (Rose-Ackerman, 2001, 35).

When the government offers public goods, it naturally benefits groups or private interests, even if not intentionally, for example, the construction of a new school or court that will benefit the surrounding area. Also, some contracts, to make it possible to offer public goods, will benefit some companies. The complexity is to understand when that relation of benefit is a case of corruption (Rose-Ackerman, 2001, 36).

One factor to take into consideration is the constitutional structure of the state. If the structure allows the creation of pork-barrel projects, "clientelism", and economic support that permits the creation of market rents for electoral purposes, it can create a system of

endemic corruption. In this way, the concentration of power can enhance this political way of working for elections. But it is not conclusive, concentration of power can either be used for increasing transparency or corruption (Rose-Ackerman, 2001, 36-58). Good governance is, therefore, associated with transparency and efficiency in managing the state, which turns difficult to fight corruption, because, in the case of increasing bureaucracy to fight it, it will decrease state efficiency (Kurer, 2001, 63-65).

An important question is why citizens keep voting in corrupt politicians and parties. Corruption makes it possible to think that the vote in corrupts is associated with a moral cause. Corruption affects welfare, growth, and development – taxes are not being well managed. It can be explained due to the lack of options or cultural patterns. One theory is the "denial thesis", because of faults in the system, citizens do not vote for the best interest of society but detrimental general interests. So, corruption can be considered a democratic process failure. Another way is "clientelism", in which voters desire corruption, in the sense that voters behave as clients, not as citizens. They expect the elected government to give something back to them, mainly material rewards. This failure is where cronyism prospers, where economic success is highly dependent on knowing a person of influence or a system of cronies. In this democratic process failure, usually, politicians are elected based on a populist agenda with promises of public expenditure, where some businesspeople are already supporting those candidates expecting their rewards. In this failure, notably some clients benefit from the system, however, most of the population loses. In this field, one explanation on why poor people keep voting for "clientelist" politicians is based on risk aversion; they cannot take the risk to lose income, as it is near to subsistence. However, cultural explanations can explain better "clientelism" and corruption by itself. It can be culturally well-accepted to benefit friends and relatives on contracts and jobs, and even give gifts. Also, in some societies, there is not a clear distinction between governmental and private domains (Kurer, 2001, 63-73).

The emergency of public choice and rational choice theories literature created awareness about collective action problems. Although there is a social will to reform and create more transparent regimes, lobbies can work against that, trying to even influence the electoral process. So, parties and groups that try to reform, can be disenfranchised from the decision-making process. What can create even more difficulties to reforms are

democracies where the average voter has an income little higher than the level of subsistence, an obstacle to voters monitor the decision-making process (Kurer, 2001, 73).

Another explanation is based on the lack of alternatives, where the problem can derive from the elite, party systems, and political barriers. If there is an elite culture, the problem must be addressed inside the elite. Also, it can be addressed or even be worsened if there is a change in the elite-membership[2]. Also, what can turn more difficult is the level of elite homogeneity, as heterogeneous a political elite is, more competitive will be the members to achieve power, which can increase transparency in the political system. In a strong party system, the candidate success is dependent on the party membership, in a weak party system, it is dependent on personal characteristics. Usually, weak party systems are more corrupt, but the link is not obvious. In a system where political barriers exist to the entrance of new political forces, competitiveness for power is slowed down, which can create situations of inside party corruption (Kurer, 2001, 74-76).

In a Schumpeterian analysis, in which politics is perceived as a market, we must acknowledge that voters vote for corrupts because they prefer them. It can be due to ignorance, in two senses: information deficiency or the false belief that corrupts will serve best their interest. Also, voters can have inconsistent preferences, they desire non-corrupt politicians, but because of benefits for their needs, they do not vote on non-corrupts. Also, in a collective action dilemma, voters, who are dependent on corrupt politicians' benefits, have a risk of losing income (Kurer, 2001, 76-81).

Not only the demand has failures, but also the supply. One explanation is barriers to entry. There is an analysis like the theory of contestable markets, which is also a theory of contestable political market – where new parties do not have a disadvantaged cost. However, there are several barriers to equal media exposure, loss of income or jobs, and even status. Also, the settled parties will try through information, offers, or co-optation to neutralize new contestants. In a weak party system, where the re-election is not dependent on the work quality of the representatives, it can reduce the will for better public management (Kurer, 2001, 81-82).

In the past, corruption was perceived as something that can be considered positive in unstable countries. It could secure stability between conflicting interests and a certain

[2] One reason pointed by Italy related to the change of the party system.

level of economic stability. However, agents that look for corruption are not efficient, it does not create stability in the long run (on the contrary, it can be used to fuel unrest) and undermine the system because it perpetuates its malfunctioning unless reforms are put in place. It is also relevant to note that corruption can be a factor of economic and social inequality. There is a relation between the level of corruption and income. The lower the GDP per capita and its growth, tends to be higher the level of perceived corruption (Tanzi, Davoodi, 2001, 89-91).

Moreover, corruption can affect growth on a logic of investment, because the investment is not productive. Other effects that damage growth and the economies are poor education and health investments, loss in tax collection, which can create fiscal deficits and decreases the fiscal revenue (Tanzi, Davoodi, 2001, 96-106).

3.2. Money Laundering

It is considered to exist three generations of anti-money laundering laws. The first is related to fight drug dealing. The second expanded the offense to corruption, terrorism financing, extorsion, and financial crimes. The third generation took out the need for previous crimes to consider a felony as money laundering (Saad-Diniz, 2013, 103; Braga, 2010). In this section, it will be possible to perceive those generations.

It is difficult to track the origins of money laundering. It can be argued that was with piracy. However, the concept appeared in 1982, originated from laundries that were used to give licit appearance do illicit resources from the gangs and mafias that operated during the 1920s in the USA. Through laundromats they were well-succeeded in the task. For this reason, ‘money laundering’ became of common use for that kind of action (Sullivan, 2015, 1-4; Romão, 2013, 39).

So, money laundering is an attempt to mask or transform money from illicit sources into licit assets and resources, enabling its unrestricted use. It is qualified as an organized crime and it has an increasing level of expertise and specialization (Gloeckner, Silva, 2014, 153; Romão, 2013, 35-41). According to Sullivan (2015, 2), “Money laundering is the practice of integrating the proceeds of criminal enterprises into the legitimate mainstream of the financial community”.

According to FATF, there is a model that can explain it in three phases: placement, layering, and integration/recycling. Since this is a model, it is not in this way that laundering always occurs, the phases can occur at the same time, are independent and the lack of one does not guarantee the failure of the laundering or the success of tracking it (Romão, 2013, 42-44).

Placement is when the economic resources are tried to be inserted in the legal system. This is the riskiest part of laundering since there is no legal justification for it. So, it is tried to hide the source and who is involved with it. There are several methods used for this concerning the international system, as personal cash accounts, industries in which is easier to insert money (as casinos, restaurants, or cinemas), or the acquisition of goods. The second step is layering, in which the laundering is consolidated. It mixes the sources, divides it through several operations, and reunite, giving a legal economic justification. This hamper the creation a paper trail about the money. Integration or recycling is where the funds or goods are reinvested on the beneficiaries of the laundering. In this phase industries as tourism, insurance companies, retail, luxury, or real estate are commonly used for it (Romão, 2013, 42-44).

The technological advances of the last decades turned closer and easier access to financial institutions, turning possible in any part of the globe to make transactions. This helped to boost money laundering as an international activity. According to COPEI, there are three fundamental characteristics of money laundering: complexity, professionalization, and the transnational character (Romão, 2013, 44-45).

It is complex because there is a continuous improvement of it, with new technology and methods. This means that with every new method, technique, or technology discovered, launderers will upgrade their action. It is professional because organizations have specialization and experts for each task or process of laundering. It is transnational because the international juridical system has not efficient cooperation between jurisdictions (Romão, 2013, 44-45). Callegari presents more characteristics beyond the previously identified: permanent inclination to launder money; high volumes; and connection between other criminal activities like drugs or arms (apud Romão, 2013, 45).

Knowing the methods and characteristics of laundering helps to create methods to investigate it. The perspective of judge Sérgio Moro in 2010 was to understand the

lifestyle of who is being investigated. If the person or inner circle has a standard of life that is hard to justify if it is legit, can be proof of the practice of the crime of corruption or of money laundering (apud Romão, 2013, 46).

Even though the increasing difficulties to discover the laundering, what can help to understand if an organization or individual is proceeding in this way is to perceive the increasing amount of wealth without an explainable economic reason. If there's any incoherence related to the source (unusual for the profession or field of activity), complex activities with several counterparties, with various transactions in different jurisdictions (involving tax heavens or risky jurisdictions) and several types of financial assets and instruments are indicatives of a possible attempt of money laundering (Romão, 2013, 46-47).

The Vienna Convention (1988) shows that originally the fight against money laundering was against drugs. However, it has delivered the first conditions to internationally fight money laundering, being the first document to state the need for record-keeping in financial institutions (Vienna Convention, 1988).

Yet, it is only in the Palermo Convention (2001) that money laundering and corruption are directly mentioned. It typifies that action should be done against those crimes and increases the procedures financial institutions should have beyond record-keeping as monitoring, customer identification, suspicious transactions report, and limiting bank secrecy. It also built a ground for the financial system to follow international compliance of Anti-money laundering (Palermo Convention, 2001).

However, it was in the Merida Convention (2005) that the concepts of corruption and money laundering became clear. It finally was a global concern and a task that the international community should fight together. It also turned possible the recovery of assets from these criminal operations. It describes how jurisdictions should legislate on the private sector and its proper behaviour towards transparency (Merida Convention, 2005).

Merida convention reinforces the cooperation based on financial compliance in financial institutions and avoiding the misuse of bank secrecy. It showed the possibility of international cooperation and the functionality of INTERPOL. It reinforced the need to make surveillance and scrutiny on ultimate beneficial owners, politically exposed

persons, and high-value accounts. It also addressed the need for preventing the existence of shell banks (Merida Convention, 2005).

However, before Palermo and Merida conventions, the FAFT[3] created in 1990 the "Forty Recommendations" to prevent money laundering for financial services (FAFT, 2010, 2; FAFT, 2012-2019).

For financial institutions, the recommendations of the FATF recognize that there is a need to keep a CDD[4] and recordkeeping of transactions. Moreover, financial institutions must not keep accounts with fictitious and anonymous data. It also stresses the care for information about beneficial owners of funds, justification of business relationship, and the scrutiny and record of suspicious transactions. For higher-risk transactions or clients, it previews enhanced due diligence. These clients usually are PEP, casinos, real estate agents, dealers in precious metals and stones, legal services providers, and trust and company services providers. Also, it gives the right to the bank to close or even not open relationships, if there is a risk of compliance (FAFT, 2010, 4-7).

The document allows financial institutions to hire third parties to perform CDD, although it is always the financial institution responsible for it and has to make diligence to avoid risks. Even though this is possible, it is important to remember there are risks related to it: as lack of knowledge and training, and risk of criminal activities (data that can be used by the third parties). It also shows the need for vigilance on complex transactions and large transactions (not usual for the client), by checking the background (FAFT, 2010, 6-7; FAFT, 2012-2019, 16; Sullivan, 2015).

On reporting, financial services providers have the right to send suspicious cases to the FIU. For this reason, in the legal framework, those professionals and institutions should have legal provisions allowing doing so, without incurring any civil or criminal offense (FAFT, 2010, 8).

Not only financial services professionals and financial institutions are required to report. Also, legal services providers, dealers in precious metals and stones, trust, and company services providers. One major problem in the fight against money laundering in

[3] About FAFT it was created in 1989 by G7, to prevent financial crimes related to money laundering, terrorism financing, market abuse, and boost international cooperation in the sector (Quirk, 1997, 7).

[4] But also known as KYC.

business activities is the collision between professional secrecy and rights to privacy, however, in cases involving criminal activities, money launderers should also be judged on abuse of rights (FAFT, 2010, 8).

Considering jurisdictions, they must keep the supervision and regulation of financial institutions. They should also create guidelines for financial services providers and other relevant sectors in combating money laundering (FAFT, 2010, 9-10).

Considering the establishment of FIU that assists in allowing, receiving, and demanding analysis of suspicious transaction reports. Therefore, the law must guarantee that the supervision bodies and units have the ability and power to investigate money laundering. Also, these policies should allow countries and institutions to act in proper time to prevent money laundering, to develop new ways to discover techniques to fight money laundering and prevent legal arrangements between launderers that are reasonably illegitimate. Finally, international cooperation is highly relevant, recommending mutual legal assistance and extradition processes (FAFT, 2010, 10-14).

Jurisdictions' actions regarding fighting money laundering and transparency are so important for financial services due to the implementation of further analysis on reported transactions and clients. They should also elaborate a strategy to fight money laundering with a risk-based approach (FAFT, 2010, 9-21; FAFT, 2012-2019, 9).

In the interpretative notes, it is clear that at least a Compliance Officer should be at the management level to ensure the application of measures against money laundering. A great challenge recognized by FAFT is the existence of different financial and legal systems (FAFT, 2010, 22; FAFT, 2012-2019, 6-13).

For specific customers or activities as PEP, correspondent banking, money or value transfer services, new technologies[5], and wire transfers, financial institutions should have enhanced measures. With this noticeable knowledge improvement on AML procedures, it is important to note that also the business which is not considered as financial services providers gained a new term: DNFBP (FAFT, 2012-2019, 9-90).

Financial institutions should also put in place internal controls and foment wide programs of AML for all branches. Also, FAFT already recommends enhanced measures

[5] For example, cryptocurrencies.

for risky jurisdictions. In 2012, it uses the expression "Higher-risk countries" related to countries that have issues dealing with money-laundering prevention and action (FAFT, 2012-2019, 16-17).

Jurisdictions, through regulators and supervisors, should take measures to avoid criminals to be beneficial owner, manager, or controlling person of financial institutions. For law enforcement, the FIU must have power, authority, and legitimacy to act and prevent money laundering. And about techniques, FAFT recommends undercover operations and interception of communications, systems, and delivery without notification (FAFT, 2012-2019, 21-23). This is extremely relevant, there's international legitimacy to intercept communications and access to the computer system of suspects. In the Brazilian case, it was famous for the presidential communication interception during the "*Lava Jato*" process.

Even more, jurisdictions must produce statistics on how policies to prevent these crimes are efficient and effective. Moreover, jurisdictions should facilitate access to information to others and even acting as freezing accounts. Also, financial institutions when investigating their clients should take care of not allowing clients to know they are under investigation. The knowledge of these internal investigations can damage future investigations (FAFT, 2012-2019, 24-58).

Financial institutions must have procedures determining the risk and ways to process transactions or commercialize products (FAFT, 2012-2019, 62-89; O'Reilly, 2020).

Not only financial institutions but also jurisdictions must guarantee that professionals related to AML are skilled, well-prepared, have autonomy and resources to operate. FIUs are encouraged to make use of analytical software and information technology to increase efficiency and guarantee security and confidentiality. It is also recommended to join the Egmont Group for exchanging knowledge on mechanisms and information between FIUs. Financial supervisors and law enforcement authorities should also exchange information, creating legal grounds for it (FAFT, 2012-2019, 94-110).

There are also other documents which helped to base the knowledge on how avoiding and combat money laundering and increase transparency through the financial services sector as the "Basel CDD paper", which gives guidance to banks on Customer Due Diligence (Basel Committee on Banking Supervision, 2001). Also, the Statement of

Purpose of the Egmont Group of FIUs, elaborated by the IMF (International Monetary Fund, 2004).

3.3. Compliance

Compliance is related to ethical principles that a business should comply with, related to its foundational objectives, its position in society and with stakeholders, and rules it should abide by in the jurisdictions where the business has activities. It is an essential structure where exists economic freedom for doing business and a part of corporate governance (Gloeckner, Silva, 2014, 150-152). It can be defined as the concrete performance in a certain area in conformity to a prescribed behaviour. Noncompliance is when this behaviour goes against this conformity or expected behaviour. For compliance to be achieved, it is needed effectiveness (although effectiveness is not enough to guarantee compliance) (Yepes, 2011, 8).

Compliance is part of corporate governance applying regulations, act under ethics, prevent irresponsible behaviour, implement best practices, and creates internal mechanisms in business to report and comply with rules. During the 1990s, it let to be just a principle to be applied to be relevant in the legal framework of jurisdictions and companies. The purpose of it is to guarantee market efficiency (since the lack of transparency is a market failure) and protect investors (Oliveira, Agapito, de Alencar, 2017, 365-388).

We can trace compliance in the legal doctrine of "*Pacta sunt servanda*"[6], not only in Civil Law but also in International Law. This creates the need to be compliant in International Law with international agreements. Some characteristics of noncompliance are ambiguity, capability (when the performer can choose if it is going to be compliant or not), the lack of substantive obligations, and the absence of a timetable to apply those obligations. Furthermore, there are levels of compliance and it should be determined which levels are acceptable (Chayes & Chayes, 1993, 175-205).

There is a general assumption that performers will only be compliant with standards or obligations if caught or penalized. Therefore, compliance action is intended to prevent areas where it is possible to choose to be compliant or not. It aims to detect and punish

[6] Latin for "agreements must be kept".

the lack of good practices and behaviours that are considered as off-course. It is also important to mention the relevance of study behavioural sciences to best understand why performers are noncompliant with moral, ethical, legal, or social obligations (Alm, 2019, 5-21).

In the case of this study, by the historical evolution of corruption and money laundering, the lack of criminalization or the ambiguity of rules allowed to emerge the investigation on compliance with anti-money laundering standards. We can understand that in the United States, first actions relating to compliance with anti-money laundering legislation started in the 1920s, to prevent drug dealing funds to be legally inserted in the market. However, internationally it only started during the 1990s with the consolidation of FAFT and Egmont group (Sullivan, 2015).

Whereas the international community does not oblige states to act, it is solely based on voluntary action we can understand that only with the 9/11 attacks occurred an acceleration in compliance with international standards against financial crimes and the creation of compliance departments in financial institutions. Money laundering and other financial crimes were now undermining development, creating market failures, and boosting terrorist activities that killed people (Sullivan, 2015).

3.4. Anti-Money Laundering standards in a logic of Compliance

Until 2011, international compliance with Anti-money laundering international standards was low, with domestic governance as an obstacle to the consolidation of good practices. In Yepes' research, it is shown that by 2011 financial institutions also had poor procedures and application of FAFT recommendations. And the few jurisdictions, which complied or followed recommendations, were developed economies. It is even more interesting to note:

> evidence was found that the quality of the domestic regulatory framework helps boost compliance. On the contrary, high net interest margin and prevalence of corruption have the opposite effect. Other sets of factors, such as financial depth, country openness, and illegal activities, do not seem to have an impact on compliance (…) we observe that the relevance of the implementation of AML/CFT measures in countries varies according to their ML/FT risk levels.

In: Yepes (2011), p. 6-7.

Socioeconomic factors as culture and ideology can have an impact on the application of anti-money laundering standards. It is acknowledged that effective measures are rule of law, regulation, prevention, government action, judicial system effectiveness, and culture of compliance (Yepes, 2011, 6-9). According to the same author, compliance with the "40 Recommendations" from FAFT is a good way to know if countries are applying appropriate policies and have cultural factors to fight corruption and money-laundering. For this reason, the study used the same components from FAFT to evaluate countries action (Yepes, 2011).

In Yepes' study, cultural factors are considered as laws, statutes, and regulations criminalizing the activity, and criminalization of material support (not only for money laundering but also related activities such as drug trafficking or terrorism). Institutional factors are regulatory and government action quality, the control of corruption (official and financial institutions action), and membership or participation in FAFT. Socioeconomic and financial factors are country openness to international trade, financial sector size in the economy, and banking efficiency since these are indicators of compliance (Yepes, 2011, 10-18).

In general, as regards countries in which the financial sector has a great impact on the economy, most jurisdictions have taken steps to protect the integrity and reputation of financial institutions, since the international image of that jurisdiction could be at risk for money laundering concerns. Besides, foreign investors are more willing to invest in jurisdictions with a reputation in the field (Yepes, 2011, 12-18).

In Yepes' study, by 2011, full compliance of anti-money laundering procedures marked low rates, there was only 12,3% of jurisdictions in the whole world were fully compliant with international standards. Also, jurisdictions do not often transpose accurately international standards. Even more, if legislation is enacted, jurisdictions do not have practical ways to turn it functional, for example, not giving enough resources for the financial intelligence unit, supervisory, judicial, and sanction bodies. For non-financial businesses and professions, there is a lack of measures as well as for customer due diligence or ultimate beneficial owners. Even in financial institutions, the same occurs. However, it must be noted that a higher degree of international cooperation. There

is a relation between developed countries and resources to fight money laundering. One finding of Yepes' study is that until 2011, jurisdictions have put in place more measures to combat money laundering, which made the risk-based approach grown instead of a one-size-fits-all approach. Anyway, it is hard to assess the implementation of anti-money laundering standards in jurisdictions since there was a lack of information from official sources (Yepes, 2011, 10-13).

Yepes (2011) defines four challenges to the effectiveness of anti-money laundering standards, three are domestic, and one is international. The international standard challenge is related to cash-based economies. The domestic challenges are political will and financial regulation, domestic implementation of international standards and its synergies, and synergies between government and financial and non-financial institutions. Moreover, according to Yepes (2011), low compliance turns domestic financial systems vulnerable to money laundering (Yepes, 2011, 13-14).

From the study of Yepes, it is found that domestic factors are more critical for advancing compliance. Economic development and regulatory quality increase compliance, while high net interest rates reduce it. Again, it is confirmed that the participation in international trade has a relation with compliance insofar investors tend to invest in more compliant jurisdictions. Still more interesting, there is not a correlation between reduced levels of compliance and participation in the global drug economy or offshore centres. However, it also proves that there is more need for financial regulation (Yepes, 2011, 18-22).

The same study confirms that domestic action boosts compliance and contributes to a more effective international regime. However, the author reminds that is due to issues related to measurement (associated with quality and quantity data from domestic jurisdictions) and different application of methodologies. It was also found that domestic legal transposition of conventions and international standards were not yet well applied, as criminalization. Even the lack of resources and competency was noticed related to the establishment of FIUs, as the insufficiency of institutional coordination (Yepes, 2011, 22-25, 66-69).

Related to financial institutions, which have the paramount duty to prevent global flows, by 2011, all group of economies had not enough preventive measures,

exemplifying the lack of customer due diligence and identification of politically exposed persons, lifting of bank secrecy, correspondent banking relationships, misuse of technological developments, non-financial institutions report and recording, the prohibition of shell banks (and financial institutions actions to guarantee that their correspondents do not have a relationship with shell banks), prevention in the informal sector, and mutual legal assistance between jurisdictions)(Yepes, 2011, 69-75).

According to Quirk (1997), to fight against money laundering and financial market liberalization are not incompatible concepts. Since the basis of the analysis is to know the customer, not preventing transactions by itself, the purpose is to prevent by the root. Through time, the methods have been changing, since new technologies have arisen, and older methods of laundering became easier to be discovered. Therefore, policies should be ahead of new methods of money laundering, increasing training and knowledge, not prohibiting financial liberalization. In cases in which there is no legislation to prevent money laundering, it should be made prudential supervision. Statistical reporting can also help; however, one big challenge is to distinguish money laundering from drug trafficking. Ways of money laundering are smurfing, misinvoicing, barter, parallel credit transactions, interbank wire transfer, and derivatives. Thus, money laundering activities are operating more to parallel activities and with derivatives than traditional financial operations (Quirk, 1997, 7-9).

By 2001, it was recognized that the IMF should take steps to promote and enhance anti-money laundering standards. These steps were the intensification of anti-money laundering principles and supervision, increasing proximity action with FATF, and anti-money laundering surveillance. The Forty Recommendations were recognized as the appropriate procedure to fight money laundering. For this reason, it was elaborated a methodology to assess the capability of the Forty Recommendations, which would be incorporated in the Reports on the Observance of Standards and Codes by the IMF and World Bank (Kyriakos-Saad, 2005, 265-267).

However, several problems arose at that time, since the Forty Recommendations, as previously analyzed, have principles, which go beyond international supervision and are related to domestic jurisdictions. It also impacted the principle of voluntariness. Therefore, the methodology to assess was focused on prudential supervision of financial

services providers, analyzing procedures and controls, as due diligence reviews, and know-your-customer standards. The draft did not evaluate governments' and institutions' actions in domestic jurisdictions or international cooperation. Nevertheless, September 11 showed the risks of money laundering associated with terrorism financing (Kyriakos-Saad, 2005, 267-268).

The IMF considered at the time that terrorism, beyond all known dangers, has negative impacts on the economy. However, it began a process of reexamination in domestic and international jurisdictions of money laundering (and terrorism financing). Consequently, a more demanding posture related to anti-money laundering efforts emerged. Executive Directors of IMF decided to expand the involvement of the organization in this field. The methodology covered the legal framework and institutional action. Furthermore, it was decided that the IMF would collaborate with FAFT on the development and application of international standards. This is important to mention because before September 11 existed doubts about how the IMF could work closer with FAFT concerning law enforcement (Kyriakos-Saad, 2005, 268-271).

The methodology to assess was finally decided in two methods, which would avoid duplication. The first would be made by FAFT and related regional bodies, not including the IMF and World Bank. The second would be made by the IMF and World Bank, by experts not affiliated to the institutions, and non-assessing areas out of scope from both institutions (as the legal and non-prudential application of international standards). In 2002, the Forty Recommendations were added to the list of standards and codes of IMF and the World Bank. Finally, a close collaboration started between the IMF, World Bank, and FAFT (Kyriakos-Saad, 2005, 271-273).

The importance of the methodology is related to harmonization of international standards and its application and went beyond the Forty Recommendations, based on international conventions, UN Security Council, and the Egmont Group, in topics that were not so clear, turning this evident by their 120 criteria. It confirms the need for the creation of legal frameworks to prevent and fight money laundering (Kyriakos-Saad, 2005, 274-277).

This methodology confirms the need for a legal framework and a compliance culture in governance. It recognizes that exposure to money laundering depends on time and

domestic or international specificities. It creates the essential criteria (elements which the absence of action does not reveal compliance), additional elements (the ones that are optional and reinforce the AML system), and compliance ratings (compliant, largely compliant, partially compliant, non-compliant, not applicable). And to verify the implementation, assessors analyze qualitative and quantitative data (FAFT, 2009, 3-8).

For the application of the "Forty Recommendations" in the legal system, the methodology provides precise criteria even at the level of penalties. In an approach relevant to Financial Institutions, Chapter B has several in-depth measures, from recommendation 4 to 25. It creates consistency between recommendations related to customer due diligence, record-keeping, politically exposed persons, differences of risk between clients and jurisdictions, how to proceed on transactions, fast action to investigate and report suspicious transactions (involving or not possible tax evasion and developing reporting mechanisms), independent audit to test compliance and procedures, screening, an appropriate number and skilled professionals in the compliance area, a threshold of amount for enhanced measures, and techniques to reduce exposure. It is possible to explicitly notice the connection with Basel CDD Paper references (FAFT, 2009, 11-33).

Chapter C is dedicated to institutional and systemic combat of money laundering. It explains the authority that Financial Intelligence Units should have, designated law enforcement, competent authorities, and supervisors. Also, it elucidates action that jurisdictions should develop as comprehensive statistics, measures, and mechanisms. Finally, Chapter D describes international cooperation extensively (FAFT, 2009, 34-46).

In what can be reasonably considered an update, in 2019, the development of the methodology of technical compliance became more focused on the effectiveness of measures and techniques, and incisive in risk and its mitigation. Beyond clarity, it is to mention the directness of the effectiveness assessment, which shows the maturity in anti-money laundering standards (FAFT, 2019, 5-127).

4. COMPLIANCE AND ANTI-MONEY LAUNDERING STANDARDS: THE EXAMPLE OF BRAZIL

In 1991, the Vienna Convention, where money laundering was firstly discussed and was created the concept of the Financial Intelligence Unit to prevent related crimes, entered into force in Brazil. In 1998, COAF was created as the Brazilian financial intelligence unit and enabled criminal investigation, by the Federal law number 9613. For example, public companies were obliged to have compliance duties. (Araújo, 2009, 31; Romão, 2013, 38-42; Gloeckner, Silva, 2014, 147-155).

In 2001, after September 11, Brazil adopted the additional measures from the FAFT to combat terrorism financing and created a national strategy against money laundering. Although Brazilian authorities showed good intentions, by the end of the decade, the strategy and laws applied had not produced significant results. A study showed pieces of evidence that there was a possible situation of underreported communications since only a few were made (Araújo, 2009, 31-32; Romantini, 2003).

According to Araújo (2009), 5% of Brazilian GDP proceeds from illicit origins, and even if not all financial institutions in Brazil reported suspicious transactions to COAF (only 34 of the 50 largest banks made reports). Explanations were based on the lack of legal supervision, audit, and coordination between authorities. Moreover, the crime of money laundering was a secondary offense, needing a primary offense to be considered a felony. Also, the complex schemes combined with rigid bank secrecy laws did not motivate action. For example, reports sent to COAF were without clients' information. COAF had to inform the Prosecution, the Central Bank, and the Security Exchange Commission, which would all have to request the Federal Justice to lift bank secrecy. For compliance officers, it is known that time action is paramount to prevent and combat money laundering, and this bureaucratic way of investigating after the reports did not create an incentive for compliance hubs to act. The problem in Brazil was not the lack of laws or legal initiatives, but their ineffectiveness (Araújo, 2009, 31-37; Silva, 2015, 108-116).

In 2003, specialized federal courts against money laundering and financial crimes were created, in the same year, it was also established the national strategy to combat and prevent corruption and money laundering. In 2004, it started a national program of training of public officers and servants related to anti-money laundering and anti-

corruption, which also aimed to transmit a culture of prevention and compliance (Silva, 2015, 108-116).

A Law of 2012 (no 12.683) changed and widened the entities accountable and was more oriented to the prevention of money laundering. It widened the scope for natural persons and not only legal entities. It also expanded the concept of money laundering, and the duty to make reports to COAF became more regular and diligent. The general vision of these laws was to create a compliance culture, to prevent economic and financial crimes, and also to carry responsibility and notify authorities in the prevention process of money laundering (Gloeckner, Silva, 2014, 147-156; Silva, 2015, 108-116).

This update was intended to turn Brazil aligned with international standards, which deserved compliments from the FAFT report in 2012, only noticing the lack of legislation on terrorism financing[7]. Besides, this law intended to make efforts on prevention, creating the figure of the compliance officer. Even, it was considered as felonies if financial institutions did not comply with the duty of report or investigation. It increased the duties and requirements of compliance. However, criticisms have been made that it was mere legal transplantation since there was not the conscience of risk previewed or material support for the configuration of money laundering. It is relevant to mention here that this type of crime has to consider domestic specificities and mere transplantation is not enough to prevent and combat money laundering. Nevertheless, another interesting approach was to implement the "regulatory activism" which intended to increase the report and investigation of suspicious transactions. Thanks to this approach, in 2012, it was possible to investigate the "*Mensalão*" bribery scandal and allowed to prosecute 25799 cases of money laundering and corruption. In line with 2012 law, circular 3654 from Brazilian Central Bank demands an anti-money laundering program and resources proportional to the size and volume of operations (Saad-Diniz, 2013, 100-107; Oliveira, Agapito, de Alencar, 2017, 365-388).

The study of Oliveira, Agapito, and de Alencar (2017) analyzed the capture theory in Brazil, if it happens the regulator or supervisor to be caught by the regulated sector and start representing the interests of the regulated rather than the initial civil society's interests. It is relevant to perceive if the Brazilian anti-money laundering standards serve

[7] Which was implemented through laws no. 13260/2016 and 13810/2019

to act as a barrier to competitiveness or if it is used to prevent money laundering. Until 2011, the average of yearly reported suspicious transactions to authorities was hundreds of thousands (Oliveira, Agapito, de Alencar, 2017). In the following years, it stood above one million reports. Even though these high numbers, in 2013 and 2014, it slightly reduced thanks to a correction of "excesses of regulation". The excesses were related to insurance companies and lotteries, in which reporting of transactions should have a different specification. To mention, during the "Mensalão" investigations, it was found that reports to authorities were falsified. However, suspects were condemned by it. Since 2012 the number of fines also increased. Conclusions of the study showed that COAF does not have enough resources to investigate (a low number of professionals and millions of reports, less than one thousand were sent by year to further investigation). It was noticed the lack of reports of small transactions, which undermines investigative efforts[8]. But, technological progress has helped in these efforts. It was not a conclusion of the study whether regulators were or not captured by the interests of the regulated. However, it showed the lack of resources by the state to investigate in due conditions possible felonies (Oliveira, Agapito, de Alencar, 2017, 365-388). The study is relevant since it showed that Brazil complies with sharing statistics, a recommendation from the FAFT.

While these developments occurred in the Brazilian legal framework, several changes occurred in Brazilian politics. During Lula's first term, it occurred maintenance of Washington Consensus policies from previous governments, as primary surplus, inflation control, and floating exchange rate, which led to a controlled monetary and financial policies. This created a will for more FDI. However, in a jurisdiction with a lack of transparency, this can deter international investors. We can reasonably assume that the motivation to internationalize the Brazilian economy allied to civil society pressure boosted legislation towards more transparency (de Paula, Pires, 2017, 126-129; Arif, Khan, Waqar, 2020, 5-15).

Finally, it is important to mention the largest Brazilian corruption scandal "Lava Jato", 438 people were charged (with a significant number of Politically Exposed Persons). And, big companies as Petrobras, Vale, Odebrecht, Andrade Gutierrez, and JBS

[8] I would like to mention that there are several methods to discover low transactions as "flow-through of funds" or "historical deviation". The pieces of evidence of this study did not show if those methods are not reported by financial services providers or by designated non-financial institutions.

(national champions or state-owned companies) were involved in the scandal. The financial sector was also involved in the process as Banco do Brasil. The investigation process started in 2014 and made Brazil be known as a "corruption exporter". The investigation started with suspicious activities involving a Car Wash. The discoveries of the investigation showed high levels of corrupted companies, officials, public servants, workers, and officers from the company, beyond a total lack of a compliance culture inside the companies involved. Another revelation was the use of law by firms to avoid the discovery of placement and layering process of laundering during the financial services providers' preventive measures (Padula, Albuquerque, 2018, 405-417; Maragano, Knupp, Borba, 2019, 6-18; Diniz, 2019, 1-17).

The lack of a compliance culture in the companies involved created doubtless financial crises in Brazil, showing that money laundering combat is beneficial to society and companies, even if it may have some costs in the application of measures to the business. Due to the events of "Lava Jato", we can say that there is a before and after in compliance in Brazil since it could have prevented several crimes and there was not the effectiveness of laws (Padula, Albuquerque, 2018, 405-417; Diniz, 2019, 1-17).

A law no 13974/2020 and BCB Circular number 3978/2020 were approved in 2020, which enhanced anti-money laundering procedures to be adopted by supervised entities and increased the independence of COAF. This turned Brazil into a country fully compliant with all international standards and FAFT interpretations regarding anti-money laundering and corruption. Therefore, Brazil is, in 2020, one of the countries with the most advanced laws regarding money laundering.

However, the Transparency International report for 2019 considered corruption as a major risk to Brazilian development, and thanks to the scandals, it became a major issue in the 2018 elections. However, there is a risk of downtime and impunity in anti-money laundering efforts in the Brazilian institutional framework (Transparency International, 2020, 13). This report goes in line with the public choice and rational choice theories that we analyzed in the section on corruption. Even though people are worried about this issue, there is a margin to discuss if the past elections and their results reflected a rational decision to effectively tackle corruption and money laundering issues in Brazil.

5. CONCLUSIONS

In the historical analysis and literature review of corruption, we could understand the emergence of transparency, as modern people will be related to the operation of capitalism, particularly in its connections with the state. We were able to think and have some answers about the moral limits between wealth and power, that supposedly in a capitalist economy, individualist society, modern state, and democratic system, should not go along or have a close relation. However, a challenge is that politicians are legislating those legal limits. In the market, we can find risks in market distortions and other market failures as inelastic demand, rent-seeking, price setters, cronyism that reasonably can create cases of corruption and money laundering. Therefore, corruption is not only a market failure but also a democratic process failure.

In the case of money laundering, even though it started to be typified as a crime during the 1920s in the United States (related to drug dealing), international cooperation and action related to this crime in a broader concept only started during the 1990s, after international conventions and the establishment of FAFT (Financial Action Task Force). Even though the most developed countries started to fight earlier, real international efforts only began approximately 30 years ago. This proves that even though it is an ancient crime, the study and comprehension of it is very recent.

An arising problem of fighting money laundering is data privacy. The collision between professional secrecy and rights to privacy, however, in cases involving criminal activities, money launderers should also be judged on abuse of rights. We were able to find that preventive measures are secrecy laws that do not bar the application of FAFT recommendations, the existence of customer due diligence, and record-keeping by financial institutions. Also, the special care and monitoring of politically exposed persons, correspondent banking, supervision of new technologies that can boost money laundering, monitoring complex and unusual transactions, and transactions in risky jurisdictions (as tax heavens, non-regulated jurisdiction or jurisdiction with issues dealing with money-laundering prevention and action). Therefore, we can assume that financial institutions are in the front line of action on preventing and reporting money laundering cases. However, state action is required to guarantee if it is observed and to continue the process of investigation and penalizing offenders.

As most members of the international community, Brazil accelerated the implementation of measures and consolidation of compliance departments after 9/11. However, real action only started after major corruption cases as "Mensalão" and "Lava Jato". Between 9/11 and major corruption scandals, even though Brazil applied international standards, the system of reporting was complex, and measures deriving from the law were not effectively enforced by the state.

Research shows that low compliance levels (due to this lack of effectiveness) turn financial systems vulnerable to money laundering. And that laws related to compliance exist in Brazil for a long time, however with increased responsibilities since 1998, and related with money laundering since 2012, in which the Brazilian state has opted to act more based on prevention of financial crimes and entered in the third generation of money laundering combat. Even though the existing legislation, this study showed that there was a lack of effectiveness in the first years of application of international standards, which eroded efforts to fight corruption and money laundering. However, evidence showed with compliance with international standards in Brazilian jurisdiction and reports from financial services providers (the application of “regulatory activism”), Brazil judiciary power was able to investigate the corruption scandals. The investigation was more motivated by “regulatory activism” than to a compliance culture.

Answering the initial hypothesis, “Can financial compliance in place in the Brazilian financial system until 2019 help Brazil to mitigate corruption and money laundering?”, no, because there is a lack of effectiveness of laws and a lack of compliance culture. Laws existed during the period those corruption and money laundering scandals occurred, as the implementation of compliance departments in companies. However, the application was not effective, even though laws were the most compliant with international standards. We will possibly see if the effectiveness and compliance culture occur in Brazil, after the scandal of “Lava Jato”, which changed doing business in Brazil, its international image, and the internationalization of its companies.

This is an embryonic study, and it should further reinvestigated, perceiving the effects of recent legislation in Brazil or the research advances in the field of anti-money laundering and financial crime prevention and action. Also, it should be complemented by a more profound study about compliance culture and law effectiveness in this field.

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