CHAPTER V: Discussion and Conclusion

5.1. Main findings of the study

1. The compliance of AML laws were relatively at lower levels in DGCs compared to DDCs, further more low compliance in Iran.

2. There were variations among developed and developing countries in Rate of Legal measures compliance. The compliance of Legal measures was relatively at lower levels in DGCs.

3. It is found that the preventive measures compliance was relatively at higher levels in DDCs compared to DGCs.

4. The compliance of institutional measures was relatively at lower levels in DGCs compared to DDCs.

5. It is found that there were variations among developed and developing countries in compliance of AML policies and procedures. The compliance of AML policies and procedures was relatively at lower levels in DGCs compared to DDCs.

6. The compliance of International Co-operation was relatively at lower levels in DGCs compared to DDCs.

7. The perception of AML was significantly more in DDCs compared to DGCs.

8. The consequences of AML law was related to positively and significantly with public awareness, legal punishment and technology.

9. It is revealed that relation intensity of Legal punishment was more in DGCs compared to DDCs.

10. Relation intensity of technology and public awareness were relatively at lower levels in DDCs compared to DGCs.

11. The AML perception was in similar level for respondents from public and private sectors.
12. The DGCs are not following most of the AML models, which are practiced by DDCs.

5.2 Discussion

5.2.1 H1: There are significant variations between AML Laws in developed and DGCs.

This hypothesis has been accepted as it was revealed by the findings of study that there were differential compliances for different AML laws across DDCs and DGCs. In the other words, we find that the compliance of AML laws was relatively at lower levels in DGCs compared to DDCs.

According to the international standards an effective AML model requires adequate legal, preventive measures, policies and institutional measures, which should include: laws that hinder money laundering and terrorist financing offences and serve as freezing, seizing and confiscation of the proceeds of crime and terrorist funding; preventive measures that: impose the required obligations on FIs and designated non-financial businesses and professions; appropriate institutional measures that provide competent authorities with the necessary duties, powers and sanctions; and other measures that give a country the ability to provide the widest range of international co-operation. It is also essential that the competent authorities ensure that the whole system is effectively implemented. An effective AML model also requires certain structural elements such as an efficient court system. The lack of such elements, or significant weaknesses or shortcomings in the general framework may significantly impair the implementation of an effective AML framework (World Bank, 2005).

As revealed by findings of study, the developing countries AML regimes are ill-equipped to fight the war on money laundering due to inadequacy of laws, weak legal measures and ineffective implementation of preventive measures.

The result of the study clearly indicates that there is a difference between AML Laws and legal measures in developed and developing countries. In the other word, it is
found that law and legal measure for combating ML in DGCs are insufficient. This means that, there is a large gap between the international requirements and the provisions of the AML law of DGCs (Pillai & Julian, 2008). As indicated by finding the money laundering offence in DGCs does not fully cover the requirements of the Palermo and Vienna Conventions. Also, the predicate offenses do not fully cover the 20 designated categories of serious offenses. Moreover, confiscation of property laundered is not covered in the relevant legislation and depends on a conviction for a scheduled predicate offence. Additionally, financial of terrorism has not been criminalized in Iran’s Anti- money laundering law. More importantly, the finding supports that the legal measures against ML in the DGCs are still in its early stage of development and much work needs to be done with regard to the implementation of the AML laws. Therefore, some amendments to AML laws must be carried out immediately. As DGCs, Iran and India need to pay special attention to the financial institutions, and strengthen legal measures in this sector, which remain highly likely to be abused by launderers as channels through which they put their money into the legitimate financial system.

Preventive measures for ML and FT are among the most widely accepted and observed global standards. Preventive measures can be more effectively leveraged to combat ML. Hence, the FATF has established a number of preventive measures for countries and institutions to adopt in the fight against ML. Some measures to be taken by FIs and non-financial businesses and professions to prevent ML and FT include: secrecy/confidentiality laws, establishment and implementation of policies and controls, appropriate customer identification and diligence procedures in place, record keeping requirements, suspicious transaction reporting, cash transaction reporting and awareness raising and training (Schott, 2006).

The result of the study indicated that one of the major defects of DGCs Anti - money laundering model is the inadequacy of preventive measures and AML policies and procedures. For instance, some of the FIs in DGCs do not have a monitoring program, AML compliance officer, written policy and operational guidelines for detecting and reporting suspicious transactions. Also, some of them do not have a policy for relationships with PEPs and prohibiting relationships with shell banks (FATF, 2010).
It can be concluded that there is a gap between the international requirements and the preventive measures of DGCs.

The preventive measures must focus on the financial institutions, most important and numerous of which are banks. Focusing of the preventive measures on the FIs is explained by the nature of the money laundering phenomenon for several reasons. First, the FIs are most attractive to money launderers as they are “the main transmitters of money”, second, financial system is highly globalized which makes it easier to be used by the money launderers, and finally, the secrecy obligations that banks have before their customers and their operations sometimes contradict the AML measures they have to undertake (Stessens, 2000). We can see in order to increase compliance; the DDCs laws impose a considerable number of constraints on the banking industry. For instance, the PATRIOT ACT require having a anti-money laundering compliance program . . . designations of a compliance officer, written policies and procedures, monitoring, employee training and periodic independent review.

Money laundering is clearly an international activity, and efforts to combat money laundering require international co-operation. But as revealed by results of this study, it is observed that, the measures of DGCs in relation to membership in international organisations, implementation of international conventions mutual legal assistance, and Extradition for international co-operation against money laundering and terrorist financing are insufficient. For instance, India became a member of the FATF in June, 2010 but, Iran is not a member of FATF. Moreover, an important role in worldwide spreading of international AML/CFT standards is played by the FATF-Style Bodies created in different regions of the world. In the Asia/Pacific region, there is a FATF-style regional grouping known as the Asia/Pacific Group on Money Laundering (APG). India became a member of the APG in March, 1998 and strongly supports the objectives and activities of the APG. Iran is not a member of a FATF-style regional group. Also, India-FIU was admitted into the Egmont Group. Iran declared its willingness to join the Egmont Group. India and Iran are not a party to the UN Convention against Corruption. Iran also, has not signed the UN International Convention for the Suppression of the Financing of Terrorism.
Undoubtedly, the problems of ML and terrorism require a coordinated approach. No individual country has the power to stop money laundering – if one country is hostile to laundering, criminals simply look elsewhere for a place to clean their money. International cooperation is therefore essential and it is thus important to seek increased global awareness and cooperation to curb the success of money laundering.

5.2.2 H2: There is a significant difference in the perception of AML Laws and legal measures, Institutional Measures, AML policies and procedures, preventive measures, public awareness, legal punishment and technology between DDCs and DGCs.

The hypothesis has been accepted since it was revealed that there was a significant and statistical difference for perception of AML Laws and legal measures, Institutional Measures, AML policies and procedures, preventive measures, public awareness, legal punishment and technology between DDCs and DGCs. From Table 4.7 we find that AML perception is significantly higher among DDCs than DGCs. This may be due to employee awareness, involvement, and training that are three key aspects of financial institutions in DDCs. Banks in DDCs implement changes to Human Resources management and structure, such as recruiting trustworthy candidates with high regulatory awareness and appointing a compliance officer at the managerial level. Banks also involve employees in their AML policy by training relevant staff in their legal obligation to recognize and report suspicious transactions. In this regard the USA PATRIOT ACT requires financial institutions to implement an anti-money laundering program that, one of its requirements is training for employees on how to detect and prevent money laundering.

Study findings show that, a majority of the respondents from DGCs believe that training programmes of FIs are inadequate. Therefore, AML training is especially important those staff that work closely with clients or might be in the best position to identify actual ML or potential risk.
5.2.3 H3: Consequences of AML laws are significantly related to public awareness, legal punishment and technology.

The hypothesis 3 states that “Consequences of AML laws are significantly related to public awareness, legal punishment and technology” has been accepted. From Table 4.8 we find that consequences aspect of AML law was found be related to positively and significantly with public awareness, legal punishment and technology.

Results showed that the increasing of public awareness, legal punishment and technology will cause change in the level of consequences of AML laws in developed and DDCs. This means that, increasing of level in these factors have positive impacts on reduce of ML.

Unawareness about the problem of ML among the common people is an impediment in having proper AML regime (Kumar S., 2009). Increasing the public awareness could have a positive impact on successes of Laws and regulations. Public awareness activities provide the template for shaping client’s behavior and foster changes in behavior leading towards a culture of risk reduction. Findings of this study showed that clients of the FIs in DGCs do not have adequate awareness about the nature of ML and there is a lack of programs in these countries for increasing the awareness of clients.

One of the consequences of AML law is the requirement on FIs to know their customers. Knowing one's customers, FIs will often be able to identify unusual or suspicious behavior, including false identities, unusual transactions, changing behavior, or other indicators of laundering. Therefore, for institutions with millions of customers, traditional ways of knowing their customers must be supplemented by technology. Moreover, given the stringency of regulatory requirements, technology is a key enabler for FIs. Study findings indicate that most of FIs in DGCs do not have AML software. Also, technological infrastructure is the key operational challenges that the DGCs financial institution encounters (World-Check and BMR Advisors, 2009).

As indicated by the findings, it is accepted that one of the most effective measures to combat ML is Legal punishment but, the DGCs legal punishment for ML is not
deterrent. As already stated, the AML act should be as a measure of prevention to those who are contemplating criminal activity. This deterrence should be intended to prevent a re-offence by the offender by imposing a punishment that a money launderer wouldn't want to experience again.

In conclusion, the countries responses should be in the form of raising awareness about this phenomenon, especially its socio-economic impact. The countries should also devise effective legal punishment; and of course, they should apply effective technology.

5.2.4 H4: Respondents in the public and private sector differ significantly in their perception on AML Laws and legal measures, Institutional Measures, AML policies and procedures, preventive measures, public awareness, legal punishment and technology.

Hypotheses 4 has been rejected since it was revealed that there was no significant and statistical difference for perception on AML Laws and legal measures, Institutional Measures, AML policies and procedures, preventive measures, public awareness, legal punishment and technology between public and private sector. Table 4.14 indicates that, the mean values in all components, respondents from public and private sectors had similar levels of scores, indicating that the AML law perception was same for respondents from public and private sectors.

This means that, the public sector is not alone in its efforts to control money laundering. In order to comply with the DDCs laws effectively, the private sector must constantly communicate with the government. But, it seems that the DGCs private sector has not yet been fully integrated with the public sector.

5.2.5. H5: There is significant difference between AML models followed by stated DGCs with stated DDCs.

Hypothesis 5 can be stated as “There is a significant difference between AML models followed by stated DGCs with stated DDCs” has been accepted. From Table 4.15 we
found that developed countries are following most of the models compared to developing countries. Moreover, one interesting feature of the table is that out of 9 models listed by the researcher 7 each were followed by U.K and 6 by U.S, whereas only 3 models were followed in India and 3 models partially followed in Iran. This clearly shows that both India and Iran are not very serious in following the AML models compared to U.K and U.S. In other words developing countries lag behind in following the existing AML model, which are followed by developed countries.

It can be said that, no country has been more committed to prosecuting the international fight against first money laundering, and then terrorist finance than the United States. From the mid-1980’s ‘following the money’ came to be seen as a new front in the ‘war on drugs’, while after the terrorist attacks of 2001 attacking the financial sinews of terrorist groups became a top priority. Moreover, the AML regime belongs more to Europe than any other region (Sharman, 2006). It is clear from Table 5.1 that, the DDCs such as the U.S and U.K in response to this challenge have designed a set of stringent laws and regulations to help deter and prevent money laundering. Additionally, DDCs have designed a few AML law models such as; “European Communities: Council Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering,10th June, 1991” and “Organization of American States: Model Regulations concerning laundering offences connected to illicit drug trafficking and other serious offences” for implementation in their jurisdiction. Although, many countries do not rise to the relatively new and very high standard of the DDCs, partly due to the complex nature of legislation, structural enforcement programs and other unique domestic concerns, but, the DDCs "model," with slight modifications, has been adopted by many countries.
Table 5.1 Title of laws regarding ML in DDCs and DGCs

<table>
<thead>
<tr>
<th>Country</th>
<th>Title of law</th>
</tr>
</thead>
<tbody>
<tr>
<td>IRAN</td>
<td>Islamic republic of Iran’s AML Law (2008)</td>
</tr>
</tbody>
</table>

Most of DGCs Act has been enacted due to the FATF’s black-listing, as well as their obligation under the International Conventions and other international pressure (Pillai, 2008). India and Iran also, have taken maximum steps to address the epidemic of money laundering but problems exist in the gaps between their AML framework and international standards.

As indicated by results of the study, the AML frameworks of developing countries have significant weaknesses and shortcomings. The results of the study clearly revealed that the influence rate of five key elements of AML framework include; laws and legal measures, preventive measures, AML policies and procedures, institutional measures and international cooperation in DDCs more than in DGCs.

It is found that there was a significant difference between AML models followed by stated DGCs with stated DDCs. And also from Table 4.16, we found that most of AML models followed by DDCs are not feasible in DGCs. Hence, the researcher based on assessment of AML regimes of the U.K, U.S, India and Iran in compliance.
with international AML standards, performances of DDCs and also discussions with a few experts in all the 4 countries, finally arrived at the model, which is supposed to be feasible for all the types of countries particularly to India and Iran. The proposed model should involve a complex function of criminalization of ML and FT, Setting up freezing, seizing and confiscation systems, imposing preventive regulatory requirements on FIs and DNFBPs, Establishing an FIU, creating an effective supervisory framework, setting up channels for domestic and international cooperation.

The four countries included in this study are at very different stages of AML/CFT implementation. The U.K, U.S and India are FATF members. Indian AML law came into force in 2005. Iran passed its AML legislation in 2008. The study found that, despite different starting points, the implementation of AML controls in the India and Iran appeared to follow similar DDCs. Findings of the study indicated a close relationship between DDCs AML model and the FATF recommendations. Moreover FATF recommendations, at present, are a perfect match compared to other existing models. This model covers all the measures that national systems should have in place within their criminal justice and nowadays, followed by 180 DDCs and DGCs.

In conclusion, the researcher has proposed that the FATF Recommendations are the best feasible model for DGCs. There are a lot of reasons that, at present, FATF Recommendations are the best model for the fight against ML and FT. Some reasons for the selection of this model are as following:

- The FATF 40+9 Recommendations have been endorsed directly by 180 DDCs and DGCs, representing more than 85% of the world and are the international AML standard.

- The legal systems of the world today are generally based on one of the three basic systems: civil law, common law, and religious law — or combinations of these. The 40+9 Recommendations followed by countries with different Legal systems. For instance, U.K, U.S and India (except Goa) are based on Common law, Saudi Arabia, Qatar, Pakistan and Afghanistan are based on Religious law and All European Union states except UK (excluding Scotland) and
Ireland, Brazil, Canada (Québec only), China, Japan, Mexico, Russia are based on civil law.

The United Nations (UN) Security Council in its Resolution 1617 of July 2005 stated that it “strongly urges all Member States to implement the comprehensive international standards embodied in the FATF Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on terrorism.

The FATF 40+9 Recommendations have been recognized by the International Monetary Fund and the World Bank as the international standards for combating money laundering and the financing of terrorism.

The 40+9 Recommendations set minimum standards for action for DDCs and DGCs countries to implement the detail according to their particular circumstances and constitutional frameworks.

The 40+9 Recommendations cover all the measures that national systems should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by FIs and certain other businesses and professions; and international co-operation.

The 40+9 Recommendations apply not only to ML, but also to TF, and provide an enhanced, comprehensive and consistent framework of measures for combating ML and TF.

The review process for revising the Recommendations is open to FATF members, non-members, observers, financial and other affected sectors and interested parties. This consultation process provided a wide range of input, all of which was considered in the review process.

A key element in the fight against money laundering and the financing of terrorism is the need for countries systems to be monitored and evaluated, with respect to these international standards. The mutual evaluations conducted by the FATF and FATF-style regional bodies, as well as the assessments conducted by the IMF and World Bank, are a vital mechanism for ensuring
that the FATF 40+9 Recommendations are effectively implemented by all countries.

Additionally, Table 5.2 shows the economical and social benefits of meeting the 40+9 Recommendations and also, risks of not meeting the stated model.

Table 5.2 Benefits / Risks of meeting the 40+9 Recommendations

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Benefits of meeting the 40+9 Recommendations</th>
<th>Risks of not meeting the 40+9 Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Economical</td>
<td>Social</td>
</tr>
<tr>
<td>1</td>
<td>Good reputation of country</td>
<td>Prevent corruption</td>
</tr>
<tr>
<td>2</td>
<td>International trade and capital flows</td>
<td>Reduces crime - not just ML</td>
</tr>
<tr>
<td>3</td>
<td>Improves economic growth</td>
<td>Reduce incentive to commit crime</td>
</tr>
<tr>
<td>4</td>
<td>Gain proceeds of crime - Put criminal funds to good use</td>
<td></td>
</tr>
</tbody>
</table>

5.3 Conclusion

As already mentioned, money laundering is a global phenomenon and it is an international challenge. It has wide social, political and economic implications. The global crimes, such as drug trafficking, organized crime and terrorism thrive on money laundering. Large scale laundering of money may cause serious economic and even political instability in a country. Money laundering facilitates crime and corruption within developing economies. Money laundering can also impair a developing country's economy through the country's trade and international capital flows. The money laundering process is more broadly classified into three basic steps:
placement, layering and integration. The placement stage is accomplished by changing the bulk cash derived from criminal activities into a more portable and less suspicious form by depositing those proceeds into the mainstream financial system. Layering involves creating a web of financial transactions that in terms of their frequency, complexity and volume often resemble legitimate financial activity. The final stage of the money laundering process is known as integration. Integration involves reintegrating the washed or cleansed funds with formal sector economic activity. Consequently, the fact is that ML recognized as a fundamental challenge for the global society and an effective AML regime offers important benefits to countries both domestically and internationally as it decreases ML and increases the potential for economic growth and sustainable development.

The present study attempts to assess the feasibility of DDCs AML model with DGCs such as India and Iran. Understanding the DGCs approach to controlling the problem of money laundering is enhanced by a brief comparison with the approach taken by the DDCs. Understanding these systems together will allow us to discuss better how enhanced cooperation between the countries may yield fruitful results.

The research unveiled the extent of AML systems and the effectiveness of such systems in U.K, U.S, India and Iran in the fight against ML and FT. It also brought about the scope of coverage of such models and the players involved in the implementation of the existing models. The questions raised in chapter I, find their responses within the context of the research findings such that the analysis thereof provides a reasonable background of the evaluation of AML Models in developed and developing countries. The results are presented and all hypotheses of the study are tested and verified.

Results suggested that, at present, the U.K and U.S. as DDCs have a comprehensive AML model to combat money laundering and terrorist financing. Their AML laws and regulations are broad, fully covering the elements of the international standards. Also, their preventive and institutional measures are comprehensive and efficient. AML models of these countries have extensive powers to monitor and ensure compliance by the financial institutions regulated by them. The U.K and U.S. also have substantial experience in responding to terrorist threats and the support networks
that make terrorist acts possible. Therefore, it can be concluded that, the developed countries AML model is based upon the relevant international instruments concerning ML and the FT, the FATF recommendations and best practices.

The four countries included in this study are at very different stages of AML/CFT implementation. The U.K, U.S and India are FATF members. Indian AML law came into force in 2005. Iran passed its AML legislation in 2008. The study found that, despite different starting points, the implementation of AML controls in the India and Iran appeared to follow similar DDCs. The AML laws and legal measures in Iran and India, as DGCs are still in its early stage of development and much work needs to be done with regard to the implementation of the AML laws. Iran and India have taken steps in the right direction towards ML control but, results of the study indicated that the AML models followed by these countries are insufficient. There is a large gap between the international standards and the provisions of the developing countries AML law. As the developing countries, Iran and India need to pay special attention to the financial institutions, and strengthen the legal measures in this sensitive sector, which remain likely to be abused highly by launderers as channels through which they channel their money into the legitimate financial system.

Despite many countries do not rise to the relatively new and very high standard of the DDCs, partly due to the complex nature of legislation, structural enforcement programs and other unique domestic concerns. And also, Current AML regulations are generally expensive to implement (Levi and Gilmore 2002), are designed to fit developed economies rather than developing. Therefore, there are some problems such as imposing an undue administrative or financial burden on governments or financial institutions. But as the AML regime attains truly global proportions, being diffused to DGCs (Sharman, 2006).

The DGCs can learn from the DDCs experiences. The researcher believes that AML models of DDCs to DGCs are feasible and worthwhile. The DGCs should avoid some of the problems the DDCs have encountered. The DGCs can adopt those parts of DDCs AML models such as legal and preventive measures that are consistent with their own cultural and political circumstances, constitution and legal regime, as well as international standards.
More importantly, results suggested that, because of a close relationship between DDCs AML model and the FATF Recommendations, the AML model of FATF is a perfect model compared to other existing models. These Recommendations covers all the measures that a national system should have in place within their AML model. In conclusion, results of the study have proposed that the FATF Recommendations is the best feasible model for DDCs and DGCs.

5.4 Limitations

Although this research was carefully prepared, there were some unavoidable limitations. They include the following:

- First, the scope of research: Research was primarily conduct with the financial sector, a limitation to the scope of the study. The main reason was the availability of information and willingness of respondents to help with the researcher.

- Second, sensitivity of topic: The sensitivity of the topic also prevented the respondent from giving example of typical encounters with money laundering, even where they could.

- Third, time limit: Time was of the essence in this study. The researcher was faced with time constraints given the deadlines set for the completion of the thesis and the slow rate of receiving research information from respondents.

5.5 Suggestions

It can be said, AML is a war and the biggest weapon that countries can take with them is an effective AML model. Therefore, the need to effectively combat ML is non-negotiable for all countries, particularly DGCs. It is clear that much has already been achieved toward AML, but it is equally clear that much still remains to be done. The following are some suggestions:
1. DGCs should establish a AML model with an amalgamation of measures that can be include: (a) criminalization of ML and FT, (b) setting up freezing, seizing and confiscation systems, (c) imposing preventive regulatory requirements on a number of businesses and professions, (d) establishing an FIU, (e) creating an effective supervisory framework, (f) setting up channels for domestic cooperation, and (g) setting up channels for international cooperation.

2. A major factor that would make success or failure of ML prevention work is the attitude of the front-line financial institutions. And, training is the key to enhancing an anti-money laundering attitude among front line workers in the financial institutions. A successful training program has a highly positive impact on the promotion of an AML model. AML training is especially important to those staff that work closely with clients or might be in the best position to identify actual ML or potential risk. Training programs should be the high priority for the near term future.

3. Across the world, banks have become a major target of the ML operation because banks provide a variety of services and instruments that can be used to conceal the source of money. Hence, banks should contribute towards promotion of transparency in the financial markets. Moreover, financial institutions of DGCs should establish an AML program that has the following four requirements: First, internal policies, procedures and controls designed to detect and prevent ML; second, a compliance officer whose role is to oversee the program; third, training for employees on how to detect and prevent ML; and fourth, periodic audits of the AML program.

4. India amended the PMLA in order to strengthen its AML regime. However, India should extend the PMLA to dealers in precious stones and metals; real estate agents; lawyers, notaries and other independent legal professionals; and accountants. India should take action to provide increased transparency in alternative remittance systems. India also should become a party to the UN Conventions against Transnational Organized Crime and Corruption.

5. Iran should pursue the implementation of a viable AML regime, including effective legislation and proper regulations that adhere to international standards. Iran has taken good steps to combat money laundering and terror financing, but some amendments should be carried out in its Anti-money laundering laws and regulations.
Considering that Iran consistently has been accused of supporting terrorism, legislation to combat terrorism financing could increase the country’s global credibility. Iran should also join the UN Convention against Transnational Organized Crime, the UN Convention against Corruption, and the UN Convention for the Suppression of the Financing of Terrorism.

6. At present, the U.K and U.S have a comprehensive AML model. These countries should continue their active participation in international forums and their efforts to provide assistance to jurisdictions with nascent or developing AML regimes.

5.6 Further Research

A number of suggestions regarding areas of future research related to the AML:

- A similar study on the same topic in other countries may be conducted with large samples of financial institutions.

- Further studies can be conducted whereby the sample population can be extended. The results may vary from the results presented in this research.

- This study is focused on the banking sector. Further research is needed on the other financial and nonfinancial sectors vulnerable to ML.

- Further studies are required on the achievements and consequences of AML laws and regulations in developed and DGCs.