

The Role of the Economic Financial Crime Commission in the Fight against Corruption in Nigeria

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Abstract

Corruption is a major societal problem in the 21st century. It is prevalent in developing countries as well as in the developed ones. During the 1980s and 1990s, major banking frauds and corruption scandals occurred in many countries. Nigeria has experienced its fair share of such scandals, especially during the military era and even its current democratic dispensation. The impact of corruption on our national economy has manifested in different kinds of political, social, and economic vices. This led to the formation of the EFCC by the Obasanjo administration to find ways of tackling and eradicating corruption in our society. Using observation method and secondary sources, the paper examines how the EFCC has been able to address corruption in Nigeria, Some recommendation were made in response to the finding.

Keywords: Economic Financial Crime Commission, Corruption, Nigeria

Introduction

Corruption is a cancer that has eaten deeply into the fabric of Nigeria polity. The general global perception about graft in Nigeria is that it is generally acknowledged that corrupt practices are endemic and systemic in both public and private sectors of Nigeria. From the forgoing it is evident that corruption undermines the country's integrity and security. It also poses serious developmental challenge being responsible for the poverty of the populace. Public resources meant for the development of all ends up in few hands, the nation pays the price. This has resulted to

absence of social amenities such as portable water, electricity and good roads. The populace becomes demoralized and become willing tools to be used as sabotages to the state. It has led to the extinction of institutions of national significance and pride such as Nigerian Airways, National Shipping Lines, Steel Rolling Mills, Nigerian Telecommunication Limited, car assembly plants etc.

This has led to high level of crime in the country under such condition; the country cannot attract foreign investment. This paper is divided into Six sections; 1 conceptualisation of the concept corruption, 2) the causes of corruption, 3) the consequence and effect of corruption, 4) the background to the formation of Economic and Financial Crime Commission, 5) conclusion 6) recommendation

Conceptual Clarification

Corruption

In view of the foregoing this paper provides a conceptual framework web, conceptual clarification corruption as a term is uncertain and indeed devoid of any strait jacket definition. It depends on who is defining and from what perspective. What is corruption? If you are a typical Nigerian, you would define it as government officials looting our treasury. One could view; everything starts and ends in government offices. It will surprise you that almost everybody is campaigning against corruption in Nigeria? We are all waging a war against corruption. The main reason Nigeria is not making progress we say authoratively is that those in government are just stealing public money. Corruption in Nigeria is not the exclusive preserve of politicians, civil servants, and captains of industry. Among the “common people” there is an instinctive honing of stealing skills. One should stop thinking people suddenly become corrupt when they join the government. However having been tutored and mentored on petty stealing from probably the age of five, Nigerians naturally explode when they occupy positions of authority at any level either in private or public sector. They

join the bandwagon of selfish leaders after suddenly finding themselves in the corridor of power. Rather than use their positions to repair its ills; they conform to the enrichment craze.

In other words corruption is defined as the involvement in illegal, dishonest, or wicked behaviour which is destructive of the moral fabric of society.

To some people corruption 'is the conscious and will plan act by a person or group of persons to appropriate by unlawful means the wealth of another person or group of persons'.

To others it is the act of turning power and authority into ready cash. To yet another group, it is the diversion of resources for the betterment of the community to the gain of individuals at the expense of the community.

Black law dictionary however defines corruption thus:

'An act done to give some advantage inconsistent with the official duty and rights of others. The act of Official or Judiciary person, who unlawfully wrongly uses his position or character to procure some benefit for himself or the right of others'.¹

The dictionary in the second segment of its definition says that:

"Corruption is the act of doing something with intent to give some advantage inconsistent with official duty and right of others or official's use of a station or office to produce some benefit either personally or for someone else contrary to the right of others"². The new edition of the chambers 20th century dictionary defines the term beyond the pilfering of public funds, the amassing of fortunes by illegal or corrupt means does not seem to necessarily disturb the average Nigerian as to make him lose sleep over it.

Also, the British Department for International development (DFID) maintains in its 'Nigeria country strategy paper for the year 2000, that

¹ Black Law Dictionary

² *ibid*

poverty persists in Nigeria because of the mismanagement of resources and corruption found practically but not exclusively in the public sector³.

The World Bank defines corruption as:

The abuse of public office for private gains. Public office is abused for private gain when an official accepts edicts or extorts a bribe. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Public office can also be abused for personal benefit even if no bribery occurs through patronage and nepotism, the thereof state assets or the diversion of state resources⁴.

The Asian development bank understand corruption as involving ‘the behaviour on the part of officials in the public and private sectors, in which they improperly and unlawfully enrich themselves and on these closely related to them, or induce others to do so, by misusing the position in which they are placed.’⁵ According to Stople (2008), United Nations Convention against Corruption, recognized corruption as a multi-faceted, dynamic and flexible phenomenon, and therefore does not define, but describe corrupt practices⁶. Corruption may not be easy to define but, according to Tanzi (1998), it is “generally not difficult to recognize when observed.” Corrupt acts required a minimum of two individuals from one or more communities, and either exchange or the promise of an exchange of money⁷.

According to Salisu (2000), the simple definition of corruption is that it is the misapplication of public resources to private ends. For example, public

³ Ayua.I (ed).Proceeding of the National Conference on the problem of corruption in Nigeria,26-29 March 2001,Abuja

⁴ World Bank 1997 “Helping Countries combat Corruption: The Role of the World Bank

⁵ International Centre for Economic Growth 1999, Information Brief 6,Causes and Effects of Corruption, Nairobi

⁶ Stople, O., 2008.Corruption and Anticorruption in Nigeria and beyond. A Paper presented at one day workshop on ‘Reporting corruption in Nigeria ‘Organised by the United Nations Office on Drug and Crime (UNODC), in collaboration with the Economic and Financial Crimes Commission (EFCC) and the Nigeria Union of Journalists (NUJ)

⁷ Tanzi, V., 1998.Corruption around the World: Causes, Consequences, Scope and Cures.IMF Staff papers, 45(4). Retrieved

from :<http://www.imf.org/external/pubs/FT/staff/1998/12-98/pdf/tanzi.pdf>

Officials may collect bribes for issuing Passports or Visa, for providing goods at sea/airport for awarding contracts or artificial scarcity⁸. Konie (2003) identified two types of corruption, these are,

Vertical corruption, which involves managers and decision makers. This is common in less developed countries and;

Horizontal corruption, which involves the entire Officials, informed and laymen groups in the countries. The two types of corruption should be seriously addressed and eradicated if any meaningful economic or political progress is to be made.⁹

Corruption also reduces economic growth, enhances inequalities and reduces the government's capacity to respond to people's needs. All these swerve down to create poverty in the society'. Corruption distorts economic and social developments, by engendering wrong choices and by encouraging competition in bribery rather than in the quality and price of goods and services and, all too often, it means that the world's poorest must pay for the corruption of their own officials and of multinationals' agents¹⁰. Corruption leads to a growing gap between the rich and the poor and deepens poverty by enriching a few at the expense of fellow citizens. Under a corrupt system, there is a concentration of wealth in the hands of a tiny minority of the population. Resultantly income distribution becomes highly skewed.

Closely associated with the connection of wealth in the hands of the few, a distorted consumption pattern, aimed at meeting the luxurious lifestyle of the urban elite, emerge, ¹¹.

⁸ Salisu, M 2000. Corruption in Nigeria. Lancaster University Management School Working paper 2000/006. The LUMS Working Papers series. Retrieved from: <http://www.lums.co.uk/publications>

⁹ Konie, G., 2003. National Reconciliation. The Post, A Zambian Newspaper wed. July 23. No.2471, pp:11

¹⁰ Langseth, P et al 1997 The role of a national integrity system in fighting corruption. EDI Working paper. The World Bank, Washington, D.C

¹¹ Zero Tolerance Campaign, 2008. Namibia's zero Tolerance for corruption campaign. Retrieved from [www.anticorruption](http://www.anticorruption.info) info

According to **Transparency International** (TI) (2008) Corruption is the misuse of entrusted power for private gains. TI went further to differentiate between “according to the rules” Corruption and “against the rule” Corruption. Facilitation payments where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute the former¹². The latter on the other hand is a bribe paid to obtain services the bribe receiver is prohibited from providing.

Some researchers have defined corruption to be related only to bribery and unlawful payments, **Grunner** (1999), **Ojaide** (2000), defines Corruption as “any systematic vice in an individual, society or a nation which reflects favouritism, nepotism, tribalism, sectionalism, undue enrichment or amassing of wealth, abuse of office, power position and derivation of undue gains and benefits. Corruption also includes bribery, smuggling, and fraud, illegal payments, money laundering, drug trafficking, falsification of documents and records, window dressing, false declaration, tax evasion of any kind to the detriment of another person, community society or nation. The pertinent question here is: what is the cause of corruption in Nigeria?

Causes of Corruption

Many reasons have been put forward as probable causes for the prevalence of corruption in Nigerian. This ranges from non-conformity to religious tenets, imparted values and ideas and ideas alien to our culture, ethnicity which encourages favouritism and nepotism, a weak legal system which is honoured in the breach than observance.

The political bureau in its report mentioned such causes as excessive materialism generated by our individual capitalist order which emphasize personal wealth without regard to the collective interest and welfare of the larger society. Other causes of poverty, illiteracy, get-rich- mania, statism, and wrong attitude to public property, absence of a welfare scheme which cushions effect of unemployment, retirement, large families, and quest for power, double standards and low level of patriotism. These are important

¹² Retrieved from://WWW.Transparency International.org

in themselves; it does appear that poverty is the most important single factor that promotes the wide spread of giving and taking bribes i.e. illegal financial inducements in the country.

As regards features of corruption, the most common are:

- a) Giving and receiving bribes
- b) Inflation of contracts
- c) Kick back and payment upfront
- d) Abuse of public property
- e) Lodging government fund in private accounts
- f) Examination malpractices
- g) Adulterated food or hazardous drugs
- h) Misappropriation and embezzlement of fund
- i) Money laundry by public officers
- j) Using proxy names to buy property.

Nwaobi (2004) posited that Nigeria must be one of the very few countries in the world where a man's source of wealth is of no concern to his neighbour, the public or the government. Wealthy people who are known to be corrupt are regularly courted and honoured by communities, religious bodies, social clubs and other private organizations¹³. This implies that people who benefit from the largesse of these corrupt people rarely ask questions. In Nigeria, although traditional values of gift giving and tributes to leaders often lead to what Browns Berger (1983) describes as "Polite Corruption", the extent of such corruption is relatively small¹⁴. Dadajo (2008) revealed that traditional Chieftaincy titles and membership of boards of directors of government – owned corporations are only for the 'influential' individuals in the society who have 'made it' economically or politically. Most of these people 'made it' through enriching themselves

¹³ Nwaobi, G.C., 2004. Corruption and Bribery in the Nigerian Economy: An empirical investigation public Economics 0404006, EconWPA. Retrieved from: <http://papers.ssrn.com/so13/papers.cfm?>

¹⁴ Brownsberger, W.N., 1983. Development and Governmental Corruption-materialism and political fragmentation in Nigeria. *Journal of modern Africa Studies*, 21:215 -233

fraudulency, but enjoy public respect and accolades¹⁵. The most annoying thing is that honest and dedicated public servants, who have not accumulated dirty wealth, do not command much respect from the society. These attitudes serve to encourage a new breed of public servants who engage in corrupt practices. According to Maduegbuna (2005), the benefits of corruption are greater than the consequences of being caught and disciplined. High incidence of poverty, which according to National Bureau of statistics (2005) is put at 54.1% contributed in no small amount to the desperation of Nigeria to acquire Wealth through any means¹⁶. While the few employed received low wages, unemployment is high. The unemployed are mostly the youths engaged in anti social activities such as cyber crime, drug peddling, prostitution, political thuggery, paid assassins, oil bunkering, kidnapping, militancy (Niger Delta) among others; all in the name of money. Jimo et al (2001) attributed corruption within the (Africa) region's public administration to over – centralization of power, lack of media freedom to expose scandals, the impunity of well connected officials and absence of transparency in public fund management, clienteles and low salaries¹⁷. Dandago (2008) observed that the poor salary levels of most public servants have not kept pace with inflation, which has eroded their purchasing power. It is also clear that the process of gaining power in Nigeria is either by armed force or the influence of money¹⁸.

Chobal and Daloz (1999) reasoned that Africa, such factors as the Obligations of mutual support, the imperatives of reciprocity, the importance of gift exchange, the payment of tribute, the need to redistribute even the habits of cattle rustling or, more generally, of plundering others, all have a bearing on the continent today¹⁹. There are

¹⁵ Dadajo, K.F., 2008. The Constitutional fight against corruption in Nigeria: Is it enough? *International Journal of Government, Finance and management.*, 8: 61-70

¹⁶ Maduegbuna, N., 2005. *Anti-Corruption in Nigeria: Public Communications Perspective.* Corporate Mirror, 1 (10): 16-18, 48.

¹⁷ Jimo, H., et al 2001. *West and West Central Africa.* In: *Global Corruption Report.* Berlin: Transparency International, pp: 81-94 Retrieved from : <http://www.globalcorruptionreport.org>

¹⁸ *Op cit*

¹⁹ Chobal, p et al 1999 *Africa Works: Disorder as political instrument.* James Currey, Oxford p.10

also those who believe that modern bribery may not be seen as cognate with traditional gift giving since it takes place outside the context of a patron – client relationship. Ethnically, the poor man's bribe to the faceless power he will never meet again is completely distinct from his traditional gift to a patron.

The Consequence and Effect of Corruption

The cost of corruption can be classified into four factors', political, economic, social, and environmental. On the political front corruption constitutes a major obstacle to democracy and the rule of law .In a democratic system, offices and institution lose their legitimacy when they are misused for private advantage. This is harmful to our democracy .Our democracy and political leadership cannot develop in a corrupt climate.

Economically, corruption leads to the depletion of our national wealth .It has led to the use of scarce public resources to finance uneconomic high profile projects such as power plants pipelines that cost billions whereas if these were channel towards building schools, hospitals and roads or the supply of Electricity and water to rural areas which are basic needs of life. This has hindered the development of fair market structures which has led to job losses and also affects investment.

On the social ladder, the people have lost their trust in the political system. In its institutions and leadership, they have developed non chalant attitude and general apathy towards government policies resulting in a weak civil society.

Environmental degradation is yet another consequence of corrupt systems. The non enforcement of environmental regulations and legislation has led to the pollution of the environment in Nigeria. Careless exploitation of Natural resources from oil and minerals by domestic and international agents hassled to ravaged natural environments affecting the health of

her citizens .Most environmental devastating project are given preference in funding, because they are easy target for siphoning of public funds into private pockets.

The Background to the Formation of Economic and Financial Crime Commission

Successive governments in Nigeria have put in place several anti corrupt measures and strategies such as Ethical Reorientation Campaign of Shagari's Second Republic, War Against Indiscipline (WAI) of the Buhari/Idiagbon regime, Babangida's Committee on Corruption and other Economic Crimes and War Against Corruption ²⁰. Other efforts include setting up of probe panels, Commission of enquiry and tribunal (e.g. Failed Bank Tribunal) to try corrupt individuals. These did not achieve much results .The success or failure in Nigeria in fighting corruption became important for Nigeria and the people of Nigeria. If Nigeria failed then the Cynics and the Pessimists will have their day. They would take a stand that it is impossible to deal with corruption, so much that some people consider it a normal thing. If Nigeria succeeds in dealing with corruption, it will not only succeed to build a basis for prosperity and for democracy and for freedom in our polity. It will be an example for other countries, that one simply cannot accept corruption as something normal. However, with the realization that political, economic and social development cannot be attained or sustained in Nigeria without first tackling or eradicating corruption. The then president of Nigeria Olusegun Obasanjo made the anti corruption campaign a priority programme of his administration. This led to the establishment of the Economic and financial Crime Commission (EFCC).

²⁰ Diamond, L., 1991. Political corruption: Nigeria's perennial Struggle. Journal of Democracy 2(4):73-85

EFCC is an inter-agency commission comprising a 22-member Board drawn from all Nigerian Law Enforcement Agencies (LEAs) and regulators. The Commission is empowered to investigate, prevent, and prosecute offenders who engage in

*“Money laundering, embezzlement, bribery, looting and any form of child labour, illegal oil bunkering, illegal mining, tax evasion, foreign exchange and privacy, open market abuse, dumping of toxic waste, and prohibited goods”*²¹

In addition, the EFCC is empowered to enforce all the pre-1999 anti corruption and Anti-money laundering laws. Punishment prescribed in the EFCC Act range from a combination of payment of fines ,Forfeiture of assets ,and up to five years imprisonment ,depending on the nature and gravity of the offence .Conviction for the terrorist financing and terrorist activities attracts life imprisonment. Its focus is to combat financial and economic crimes. The commission is empowered to prevent, investigate, prosecute and penalize economic and financial crimes and is charged with the responsibility of enforcing the provision of other laws and regulations relating to economic and financial crimes, including: Economic and Financial Crime Commission Establishment act (2004) the money laundering (prohibition) act 2004, the Advance Fee Fraud and other Fraud related offences, Act, the failed Banks (Recovery of Debts) and Miscellaneous offence Act.

Since the establishment of EFCC in 2003, the commission has been pre occupied, trying to fumigate the country. Saddled among others with the responsibilities of combating financial and economic crimes such as money laundering bank fraud, advance fee fraud. The commission has made the country a safer place for genuine business. The Commission was responsible for the identification and freezing or seizing proceeds derived from terrorist activities. EFCC also hosted the Nigerian Financial Intelligence Unit (NFIU) vested with the responsibilities of collecting suspicious Transactions Reports (STRS) from financial and designated non

²¹ Section 26, EFCC Act, 2004

financial institutions analysing and disseminating them to all relevant government agencies and others all over the world. It also addressed the nagging problems of illegal oil bunkering pipe vandalism in the Niger Delta Region. Over 10 convictions on pipe line vandalism was recorded 25 trailers (instrumentalities of crime) seized and confiscated and accounts of beneficiaries blocked ²². There is no gainsay, the fact that EFCC has impacted positively in the fight against corruption. It has made the country more attractive and safer to foreign investors, assets worth millions of dollars recovered from fraudsters and hundreds of suspects being prosecuted in court are evidence of the commission imprints.

The aggressive manner in which EFCC fought against advance fee – fraud “419” and identify theft led to the prosecution and conviction of kingpins including the celebrated \$242 million case involving a Brazilian bank. Much of the amount was recovered and returned to the bank in Brazil (The Anajembas and others). The EFCC also recovered and returned the sum of \$4 million to a victim of “419” in Hong Kong and has seized and returned over \$500,000 to sundry citizens. It is in the process of returning \$1.6 million (already blocked) to a victim in Florida ²³. Economic and Financial Crime Commission has arrested and prosecuted several public officers for abuse of office and corruption. Such public officers include past Governors, former Inspector General of Police, Legislators and Ministers.

The presence of EFCC is no longer business as usual for the corrupt. Public officers are learning to be prudent and accountable in the discharge of their duties as the fear of the EFCC is the beginning of wisdom. Nigeria has witnessed some changes in the public sector. The slogan is “due process” one needs not have a personal relationship with a minister or Director General to win a contract. The process of open tendering and bidding has made the awards of contracts more transparent than ever

²² Ribadu, N 2006 “Nigerian ‘s Struggle with Corruption “ paper Presented to the Congregational House Committee on International Development Washington, DC

²³ Ibid

before. It did reduce bribery and kick backs. At the National Assembly, the fight against corruption led to the resignation of the former senate president and sacking of the Minister of Education in what was described as “bribe for budget” scandal.

The challenge however is the emerging view that EFCC was used by the government to deal with perceived opponents and enemies’. Some individuals questioned its failure in the National Assembly during the debate on the failed constitutional Amendment which sought to extend the tenure of the presidency and state chief executives during the Obasanjo administration. A member of the first group is Ghali Na’Abba former Speaker of the House of Representative. He argued that a pattern appears established where anti corruption agencies in Nigeria are not allowed to work independently. It is observed that the proclivity to send people to face these institutions is when somebody is against the administration. It was accused of not respecting the rule of law.

Conclusion

Corruption is an enemy of national development. It gives a nation and her people a poor image. A nation that tolerates corruption is often besieged with a lot of economic, political and social vices which ultimately cripples any meaningful national development. During Nuhu Ribadu tenure in the chair, the commission became the trump card for the Obasanjo’s administration at the international community. The exploits of the EFCC were part of the factors said to have facilitated the debt –forgiveness recorded by the administration .This was because the western world were gradually gaining confidence that there a conscious effort to manage Nigerian’s resources. There is the need for the government as well as every Nigerian to consciously address this problem by instituting appropriate laws and policies and have a societal re-orientation which will ultimately eradicate corruption from the fabrics of the society.

Recommendation

Since corruption continues to be a threat to the growth and development of our country, there is the need to develop a clear way of dealing with the problem. Below are some of the recommendations:

- The need for the establishment of anti corruption court that will take charge of all criminal cases against corrupt politicians and administrators.
- The EFCC need leadership that commands legitimacy, which will enable them to assert their independence and build the integrity with its rank and file.
- EFCC should be empowered and grant absolute autonomy in handling cases relating to corruption. Anti corruption laws, legislations and regulations should be written in simpler language and made accessible to the populace.
- Clergymen and scholars should contribute their quota in the fight against corruption .This is because they hold a vantage position to reach out and talk to the average Nigerian in very powerful and convincing ways.

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