



The Effectiveness of Anti-Corruption Agencies in Enhancing Good Governance and Sustainable Developmental Growth in Africa: The Nigeria Paradox Under Obasanjo Administration, 2003-2007

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Abstract

Nigeria's public image at international scene has been very negatively impressed. Since 1966 when the first military coup took place on the account of corruption, the country is still searching for better atmosphere that could guarantee corrupt free society. Since the early 2000's when Transparency International ranked the country the second most corrupt nation in the world, the government has been working assiduously to make sure that the Nigeria image is being treated with respect. Nigeria and indeed Africa are so enmeshed in corruption that their leadership is either positioning for life leadership or wealth for great, great, grand children unborn. Also in these countries, hunger is so pronounced that people throw away conscience and decorum for survival. In a bid to fight these ills and join the wagon for good governance, viable democracy and developmental growth, some African countries like Ghana, South Africa, Nigeria, etc. have been making efforts towards attaining such desired governance. In Nigeria many anti corruption agencies are established, both public and private, all aimed at fighting against corruption and enthronement of better governance. In this paper some of these anti-corruption agencies are critiqued and their impacts are also empirically examined.

Key words: Anti-corruption agencies; Good governance; Sustainable development

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INTRODUCTION

"Who would try to nail boards together without a hammer or change a flat tyre without a jack? To deny our need for tools would be ridiculous, yet many of us have forgotten that we need tools in our lives, especially tools for living" (Rubin, 2001, p. 140).

African countries have been trying since early 1960s to fashion ways of living that could enhance good governance. Some of the countries tried to enforce better living by way of interventionist governance such as military coups (in such country like Ghana, Nigeria, Congo, etc.).

The African countries especially the independent ones became members of the world bodies that are interested in good governance like the United Nation Organizations, World Bank and its affiliations and of course the Organization of African Unity (OAU) now African Union (AU).

In Nigeria, since 1960, when the country was granted right to self rule, she has not only been a member of these bodies but has been searching for appropriate bodies that could evaluate her performance as an independent organized nation for self rule – hence her membership of Transparency International. The failure of First and Second Republic has been attributed to corruption. Thus,

in the Fourth Republic and in line with the Millennium Development Goals (MDGs) and other international development partners, whose emphasis have been on good governance, corrupt free government and poverty reduction, Nigeria has joined these bodies to fight this cankerworm that has eaten deep into the fabrics of our dear great nation.

Though the military tried to fight corruption in its own way but due to the nature of the military set up and its dictatorial antecedent and action, the military government lacked decorum and qualities that account for good governance, viable democracy, sustainable development and growth. However, the military governments in Nigeria which usually attribute their intervention in governance to corruption, tried to enforce discipline and transparency through decrees and edicts. For instance the Decree against heroine and cocaine of 1984 that carried death sentence as penalty, Examination Malpractices Decree 21 of 1986, War Against Indiscipline (WAI) of 1984, NDLEA (National Drug Law Enforcement Agency), Nigerian Customs and Excise, Standard Organization of Nigeria, etc.

In 1999 Nigeria decided to practice good governance and join the democratic countries in the world hence having democratically elected leaders. According to Attahiru Jega 'one of the challenges for bringing about good governance and democratic consolidation in Nigeria is that of creating viable and effective network, strengthening alliance and working in relationship amongst the democracy inclined civil society groups' (Jega, 2007, p. 143). The networking alliance has rather put the country at x-raying position; thus making it not only to belong to the committee of democratic nations but to the committee of transparency with Nigeria membership of the "Transparency International". International Development Partners by the democratization process became interested in Nigeria development.

By ranking Nigeria as second most corrupt nation in the world (TI, 2005), some of the African countries started working hard towards good governance. Ghana became a good democratic country, so is South Africa to mention but a few.

Prior to 2001, the Nigerian nation has been so deep in corrupt practices that hardly does anyone believe any more that the contending socio-political, economic and intellectual issues, which over time have characterized governance in Nigeria can be easily managed to forestall their continued threat to the corporate existence of the nation state (Ogbuagu as edited by Amucheazi & Ibeanu, 2008, p. 47).

Of course, the constant military coups in Africa have been attributed mainly to corruption and lack of good governance. In Ghana, former President and head of state were executed by the military leader led by Jerry Rawlings, ditto Liberia, Burkina Faso, etc.. Nigeria's First Republic was terminated by the military with the same

reason of corruption as their cause of action. The Second Republic of Alhaji Shehu Shagari was toppled on same reason of corruption and ineptitude to governance.

However, as earlier mentioned, the military made some effort to curb corruption by introducing some enabling laws, to fight against corruption was effectively introduced by the democratically elected government of President Obasanjo. So many measures were introduced with enabling laws with the aim of fighting corruption and exhibiting some transparency in governance. Such measures like Code of Conduct Bureau (CCB), Independent Corrupt Practices and other related offences Commission (ICPC), with its tribunal as a disciplinary court, the Budget Monitoring and Price Intelligence Unit (BMPIU) a.k.a Due Process, and Economic and Financial Crimes Commission (EFCC).

Code of Conduct Bureau has been a long standing constitutional body which was designed to investigate, and bring before its tribunal breaches of code of conduct, and ethics, that are applicable to public servants and their relations.

The Independent Corrupt Practices Commission, on its part, was set up to deal with corruption, in the public service and by operation also had the power to deal with private persons who come in contact, or aid, or facilitate these corrupt practices. The Economic and Financial Crime Commission was designed to deal with fraud and other economic crimes, in the public and private sectors including banking and advance fee frauds. It is worthy to note that the Criminal Investigation Department (CID) as an arm of the Nigeria Police Force has been playing major roles of investigation and prosecuting crimes and criminals (ThisDay, October 6, 2007).

CAUSES OF CORRUPTION IN NIGERIA

Corruption which according to Encarta (2005) is described as dishonest exploitation of power for personal gain and a criminal depravity has been attributed to the following as some of the causes:

Culture and weird value system of the society: Becoming corrupt in third world countries is almost very easy where Nigeria belongs, because morality is relaxed in the society and most of the time people struggle for survival without assistance from the state i.e. the government. The influence or pressure of polygamy and extended family system which are very common in African countries contribute to the corrupt system in Africa and indeed Nigeria. Corruption is linked to the strong family values that have feelings to fulfill the obligation attached thereto (Banfield, 1958). Value system also has an impact on corruption in Nigeria. Value system which has become part of the culture is such that the society does not check the background of rich individuals. Once a wealthy man comes up in a society he

is instantly given a chair of fame or honour to the extent that chieftaincy titles await him where ever he goes. The churches hail him and always give him recognition and honour. They pray for him. The Moslems alike always surround him and honour him. The Machiavelli principle of “the end justifies the means” manifests itself in this part of the society.

Poor reward system is another major factor of the corruption in Nigeria. Nigeria is one of the poorest paying countries in the world. This is a country where there is no man-hour value as economic reward. Also even the monthly meager amount is not even regular thereby giving room to workers to make ends meet by compromising their duties to meet up with the exigencies of their daily obligation.

Also our leaders and the authority are not serious at fighting corruption. The lukewarm attitude of the officers charged with enforcing the laws and bringing probity has rather aided corruption. The legislature, judiciary, police, law enforcement agents and other public officials sometime treat cases of corruption with laidez fair and lackadaisical attitude especially if such offence involves highly placed and influential persons. All the investigations both public and private, as well as the National Assembly and even the State Assemblies in most cases fizzle out. Examples of recent cases are – the PTDF investigation, Senator Nwagbara’s scandals, the murder of Chief Bola Ige, etc. All the cases of corruption against some of the former State Governors are being frustrated by the authority. A recent judgment by a London court on the case against the former Governor of Delta State (James Ibori) is particularly instructive. Nigerian courts could not prosecute him for whatever reason, yet the former Governor, before the learned trial Judge in London pleaded guilty to embezzlement of hundreds of millions of Naira belonging to the people of Delta State. Changing and withdrawing statements at the police stations are common practices. Money influence is the main instrument for corruption. Nigeria’s general election use to be one of the most corrupt systems of election world wide. Party officials, INEC officials and the police including the electorate are easy prey for compromise once they are settled. No wonder Lottermen (2002) noted that bad leadership breeds corruption.

THE EFFECT OF CORRUPTION

Corruption has played a devastating role on the country. It has always been the source of bad government in terms of leadership in Nigeria.

Most of the elected leaders are by-products of corruption by way of their emergence. The rate of development in Nigeria is very sluggish due to the corrupt nature of the political practitioners. The entire national census since 1963 has not been adjudged transparent. On the power sector, Nigeria is still wallowing in energy

underdevelopment as the nation is largely in dark despite the huge amount of money invested on energy since 1999.

The international communities no longer have trust on Nigerians who visit abroad due to this negative impression. Apart from Transparency International, the Global Advice Network Business Anti-Corruption information Network provides contact information to relevant organizations and partner embassies working with anti-corruption in Nigeria. With the enabling Section 39 of 1999 Nigeria Constitution on freedom of speech, the media had such protection for information thereby encouraging other anti-corruption crusaders to talk on it. In 2007, the Freedom House International ranked Nigeria 116th out of 195 countries that were investigated during 2007 Global Press Freedom rankings. But Reporters Without Borders ranked Nigeria 131st out of 169 their ranking same year 2007. Though their rankings were better than the Transparency International, the fact remains that the result was still at a very low grade, which could not launder the image of this country outside especially in America and the Europe.

ANTI-CORRUPTION AGENCIES

The effect of corruption is so bad that it has eaten deep into every part of the country and it carries a very negative image. However, the country has been trying to curtail this cankerworm. As earlier mentioned the collapse of various republics has been principally attributed to corruption of the leaders. Even the military coups against themselves use to establish same reasons for their change of baton. For instance the 1975 military coup was attributed to corruption against Gen. Gowon. On recent times the government has boldly constituted some authorities with enabling Act by the National Assembly as anti-corruption agents. They include the following:

1) The Independent Corrupt Practices and Other Related Offences Commission (ICPC)

The Independent Corrupt Practices and other related offences Commission (ICPC) was established in 2000. The Act establishing it empowers the commission to investigate reports of corruption, review government systems prone to corruption and educate the public (Nigeria corrupt Index 2007). The ICPC has been acclaimed as the cornerstone in the fight against corruption in Nigeria. However, the commission has been sluggish in its fight against corruption due to some logistics as adduced by its chairman. It is worth noting that the commission acts mainly upon petition or report of allegation of corruption against a public officer.

2) Economic and Financial Crime Commission (EFCC)

Economic and Financial Crime Commission (EFCC) is a law enforcement agent established in 2004. The EFCC

establishment Act 2004 mandated the Commission to combat financial and economic crimes. The commission is empowered to prevent, investigate, prosecute and penalize economic and financial crimes and it is charged with the responsibility of enforcing the provision of other laws and regulation relating to economic and financial crimes including:

- The Act itself i.e. the EFCC Act 2004
- The Money Laundry Act 1991
- The Money Laundry Prohibition Act 2004
- The Advance Fee Fraud (419) and other fraud related crimes of 1995
- The Failed Banks (Recovery of Debt) and Financial Malpractices in Banks Act 1994
- The Banks and other financial Institutions Act 1991 and the Miscellaneous Offences Act of 1991

In addition, the Economic and Financial Crime Commission (EFCC) is the key agency of government responsible for fighting terrorism in Nigeria. It is empowered to cooperate with foreign countries to investigate and bring to book any cases of financial misappropriation or fraudulent action of Nigerian public officers outside the country (EFCC Act 2004). Though the establishment of EFCC was in 2002 with all the enabling laws, its final Act was in 2004 with all the powers as enumerated above. EFCC acted promptly by investigating all the 36 state governors in the country by 2007. It successfully brought to book some of the governors then such as Governor Diepreye Alamieyeseigha of Bayelsa state and that of Joshua Dariye of Plateau state. Also some influential Nigerians were prosecuted of advance fee fraud as 419 (e. g., Hon. Morris Ibekwe of Federal House of Representatives). EFCC has recorded tremendous achievements especially as concerns 419 and other related offences. However, the commission has not been able to successfully prosecute other governors who were accused of corrupt enrichment. The frustrating effort of the government especially the destabilizing effect of the government against the leadership of EFCC has really slowed down the action of the commission against these influential former governors. This of course has not really laundered the country's image very well at international scene. Transparency International and some other anti-corruption agencies have expressed their concern on Nigerian government efforts in frustrating the commission from its vigorous fight against corruption.

3) Code of Conduct Bureau (CCB)

The Code of Conduct Bureau (CCB) and its twin sister, the Code of Conduct Tribunal are extra-ministerial departments set up by the federal government under the Code of Conduct Bureau and Tribunal Act, Cap 56, LFN 1990. The 1979 and 1999 Constitutions, Fifth Schedule Part 1 – stipulate clearly the code of conduct for public officers and it has been operating under the constitution as extra-ministerial department since 1979. However,

Decree 1 of 1989 gave the bureau additional teeth for action yet the military continued to subtly suppress it till 1999 when an enabling law known as the Code of Conduct Bureau and Tribunal Act 1999 was enacted by the National Assembly. Though as earlier mentioned, the 1999 Constitution gave it powers but the recent Act gave the Bureau a distinct right and independence. It has been effectively prosecuting offending public officers who failed to declare their assets and liabilities during their occupation of public offices. Civil servants (Federal, State and Local Governments) are part of public officers, as such are directly affected by the Bureau's investigation on code of conduct (Bureau hand book, 2003). The Bureau stipulates the conduct of a public officer and the ethical behaviour of such public officer.

4) Public Complaints Commission (PCC)

The Public Complaints Commission a.k.a Office of the Ombudsman is really the Nigerian Ombudsman. It was established in 1999 and it has commissioner as the head. Such commissioner whose appointment is subject to the National Assembly's ratification is usually a retired high court judge. The report of the commission is usually public. By 2004, the commission is reported to have had 5,604 pending cases having discharged 5,539 cases of the total complaints of 11,143. Though there has been criticism on its snail pace of discharging cases, the commission is attributing the lack of expedition to unavailability of required resources. However, it is practically clear that the government rarely acts on the findings of the agency.

5) Nigerian Extractive Industries Transparency Initiative (NEITI)

NEITI is an affiliate of the Global Initiative i.e. the Extractive Industries Transparency Initiative (EITI). It is aimed at due process and transparency in payments by Extractive Industrial (EI) companies to government and government linked entities. It is also aimed at improving transparency and independent auditing of the oil and gas revenues in Nigeria. NEITI was established in 2004 as it has been working through the National Stakeholders Working Group (NSWG). NEITI bill was signed into law in 2007 thereby giving its activities legal backing and also recognizing it as subset of the Global Extractive Industries Transparency Initiative. In fact by the 2007 Act, NEITI is recognized as an official candidate of EITI. NEITI Act 2007 mandated the Nigerian Extractive Industries Transparency Initiative (NEITI) to provide due process and transparency in extractive revenue paid to and received by government as well as ensures transparency and accountability in the application of extractive revenues (NEITI Act 2007). Going by the antecedent of NEITI leadership headed by Prof. Assisi Asobie, the world and indeed the Global Extractive Industries Transparency Initiative may have confidence on the integrity and transparent activities of oil and gas companies and the accrued revenue.

6) Budget Monitoring Price Intelligence Unit (BMPIU) a.k.a Due Process

The Budget Monitoring and Price Intelligence Unit (BMPIU) mechanism is initiated to ensure strict compliance with the openness and cost accuracy rules and procedure that would guide contract award and project execution within the federal government of Nigeria. It was established in 2001 by former President Obasanjo with the aim of insuring probity, transparency and accountability in budgetary and public expenditure management. It is applied and enforced in the federal government and agencies. It is popularly called Due Process (Obasanjo's Reforms and Due Process 2003). Due process has improved the method of contract award which hitherto associated with corrupt and sharp practices. With the establishment of BMPIU i.e. Due Process, contract awards were reviewed and acceptable and transparent process of contract award was instituted with a view to ensure that public contracts are awarded in a transparent and competitive bidding which is usually held publicly.

7) Criminal Investigation Department (CID)

This is an arm of the Police that investigates crimes of any sort. It investigates all cases and complaints and prosecutes the culprits or any body that is found wanting by the Police Force.

Having enumerated some of the public agencies for anti-corruption crusade the private anti-corruption initiatives have also been operating with vigour, with the aim of fighting corruption. Apart from the **Transparency International**, other agency like **Zero Corruption Coalition (ZCC)** is an anti-corruption agency working with Transparency and Accountability in Nigeria. It advocates with government anti-corruption agencies on the need to domesticate and implement both the UNCAC and AU convention against corruption.

8) The Convention on Business Inequity (CBI)

This anti-corruption agency is placing its emphasis on code of business and integrity with the aim of exhibiting probity.

CONCLUSION

There is need for both EFCC and ICPC to develop the political will to prosecute corrupt people no matter how highly placed. A situation where some people are regarded as sacred cow is not good.

Secondly, the modus operandi of EFCC should change. They make a lot of noise instead of investigation. EFCC used to fight corruption on pages of newspapers and television. In Argentina and Chile, corruptions are fought through investigation and in a noise-less form. This is not the case with Nigeria.

Thirdly, there is need for proper funding of these agencies. It will amount to sending a child to farm without hoe, cutlass or farming implements. Confronting corrupt people needs sound financial base.

Fourthly, reasonable and meaningful powers should be given to commission to enable them to "bark" as well as to "bite".

Fifthly, the commission should not be vindictive, oppressive, autocratic, and despotic, one-sided, biased and discriminatory. They should be fair and firm and very objective.

It is a bleeding shame that over the past nine years and after hundreds of millions of naira have been spent on the anti-graft agencies, their accomplishments consists only in on-going prosecution of about 46 cases of suspected corrupt persons in law courts. This is an abysmal performance by any standard it could be judged. In the last six years, the anti-corruption fighting commission has performed very horrendously. Till today, the ICPC and EFCC have not convicted anybody or institution for corruption in a nation that is sitting with corruption, apart from a couple of cases with some local government Chairmen and cases of "plea bargaining" with former state governors who were arrested, with light sentences. The case of former Bayelsa Governor, Chief Diepreye Alamieseigha is still fresh in our memory. He has since been reabsorbed into the political comity of his state. This goes to show that both EFCC and ICPC being the major anti-corruption agencies in Nigeria cannot enhance any good governance and viable democracy for sustainable development and growth in Nigeria. This is because we are using corrupt method to fight corruption.

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