

Nigeria Beyond 2007

Issues, Challenges and Prospects

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The Challenges of Anti-Corruption Crusade in Nigeria Beyond 2007

* Adebayo A. Lawal

Abstract

There is no doubt that the anti-corruption crusade of the present federal government since 1999 has recorded some commendable breakthroughs which are attributable to the patriotic efforts of some agencies and their dynamic leaders. Thus the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC) and the National Agency for Food and Drug Administration and Control (NAFDAC) have made some historic impact. Yet corruption still thrives in the body politic. So far it is the Federal Government through the singular initiative of the President that has consistently confronted political and administrative corruption in the public sector.

It is hoped that after 2007, some noticeable lapses in the constitutional and legal provisions for the functions of the agencies will be ameliorated. The chapter gives a full definition of political and administrative corruption and suggests some strategies for decentralizing the above mentioned agencies so that their impacts are noticeable not only at the federal, but also at state and local government levels. All state governors, federal ministers, state commissioners and local government chairman and councilors should actively be involved in anti-corruption crusade, reforms and accountability. As at now there is evident reform only at the federal level but there is inadequate accountability. An incoming federal government in 2007 should introduce a new legislation to enforce full-scale and day-to-day

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accountability at all levels of government with functional machineries.

The ICPC and EFCC are handicapped by inadequate funding constitutional backing to perform most of their functions. Already the constitutional/legal right of the EFCC to investigate the accounts of the council chairman is being challenged with reference to section 7 and 128 of the 1999 Constitution, Section 5 and 6 of the Economic and Financial Crimes Commission (Establishment) Act Cap E1 (1) LFN 2004 and Sections 13 (B), 130 of Imo State Local Government Administration Law No. 15 of 2000. Similarly the ICPC cannot probe the 24 state governors who are alleged to have misappropriated varied sums of public money because they are covered by the immunity clause.

The chapter hopes to rationalize the removal or amendment of the clause and analyse the unexpected results of further necessary reforms after 2007. The paper asserts that the private and unorganized sectors, enforcement of oversight responsibilities by heads of various organizations, immediate and appropriate sanctions against infractions of financial, banking and accounting rules and regulations, enforcement of the due process at all levels of government, detection and prevention of inflated and abandoned contracts, illegal oil bunkering, preparation and publication of annual audit reports by all federal agencies, the Presidency, National Assembly, ministries and parastatals, apprehension of culprits for punishment and plugging the channels used for payroll fraud, inflated contracts and payment for unexecuted contracts. The paper concludes that corruption has been the only cankerworm that undermines our economic development and economic growth and that any success at drastically minimizing corrupt practices in the body politic will no doubt enable us to deploy our financial, mineral and agricultural resources to solve a myriad of socio-economic problems like poverty, unemployment, derelict infrastructures, the endemic HIV/AIDS, dysfunctional power supply and poor public services.

The overall import of this reform is improved quality of life and better standard of living for the populace in the long run.

Introduction

CORRUPTION is a giant tree with many branches: Most definitions of corruption are umbrella definitions embracing many corrupt practices in our society, whether in the public or private sector. Corruption is evident in our developmental process – political, social, economic, judicial, etc – as corrupt practices are common in all strata of our society.

Definition

There are different definitions of corruption by scholars according to their disciplinary perspectives (see Oderinde, 1983; Ward, 1989). But our attention here is on corruption in public life, i.e., bureaucratic and political corruption. In this sense, corruption is the use of public power for private profit, promotion or prestige, or for the benefit of a group or class, in a way that constitutes a breach of the law or of standards of high moral conduct. Corruption is a violation of a public duty or departure from high moral standards in public offices in exchange for or in anticipation of personal pecuniary gain, power or prestige. (Gould and Kolb, 1964).

Such illegal acts constitute a departure from ethical standards and a violation of the law. They include the bribing of public officers, the falsification of public records; embezzlement of public funds and, fraudulent sale of public lands and other natural resources. Corrupt practices can also, manifest partiality in the grant of licences, the ‘sale’ of honours and favouritism in the award of contracts; the making of tax refunds that outrage public standards of good behaviour; favouritism in the enforcement of statutes against such practices as prostitution; the deposit of public funds in friendly banks, the disclosure to friends or to former or prospective business or professional associates of information on the basis of which these individuals may reap pecuniary benefits and provide protection for certain class of interests. While not always made illegal,

these various practices are often regarded as corruption in public life.

Theories of Corruption

Theories of corruption propounded by scholars depict the major features and problematics of corruption. Because no single theory has the much-expected explanatory power and analysis of all forms of corruption, some scholars have discountenanced theoretical formulations. Notwithstanding, scholarship in the explanation of the various dimensions of corruption in particular countries has been advanced to generate a policy-oriented theory of corruption. Others are structural functionalist, ethnocentric and developmentalist while academic endeavours focus on the cultural perspective, public interest-centred or public-office-centred perspective, the social exchange approach and mass people theory of corruption. (Mbaku, 1992; Macrae, 1982; McMullan, 1961; Rose-Ackerman, 1978; Boniolo and Elbert, 2005; Cheung, 1995).

A theory that is adopted is the public-choice perspective which regards corruption as a post-constitutional opportunism for generating benefits for individuals or groups at the expense of the society. The theory, according to Mbaku (1991, 1992), posits that the dimension of corruption in a country is predicated on the country's institutional arrangements rather than on the character of its civil servants and politicians. After the adoption of a constitution and the establishment of a government, there is a prevalent incentive for individuals and groups to subvert the rules in order to generate benefits for themselves. By so doing, individuals acquire benefits above and beyond their entitlements. Such behaviour and practice gain ground in both democratic and non-democratic societies, and every political choice made has distributional effects and individuals actively engaged in the political markets naturally have preferences about the distributional effects and outcomes of public policy. In the process, some

individuals and groups within the society are prepared to invest some scarce resources to influence the outcomes of the public policy in their favour. The process through which this is done is rent-seeking. (Mbaku, 1992).

Thus, civil servants who formulate and implement public policies may subvert or undermine those policies rather than satisfy public interests. They are also joined by some organized interest groups who offer them more incentives to subvert existing rules to secure benefits for themselves, hence more opportunities for corruption. This procedure is exemplified by a businessman who, in an attempt to secure an import or manufacturing licence, may bribe a civil servant at a relevant ministry to secure a permit and ensure that the ministry protects his monopoly position by denying others the issuance of the same licence in the area of his business. There is an exchange mechanism in this interaction. For the services provided, the civil servants earn "extra-legal income, while the importer who receives the permit earns more monopoly profits. (Tilman, 1968; Kimenyi, 1987). But the society is the loser. It should be noted that government intervention in private exchange (through trade regulation) to create a licence, has created an opportunity for initiating a negotiation between the civil servants and entrepreneurs at the ministry for offering bribes for some favours. Such favours are granted by manipulating the regulations to reduce the costs to the entrepreneurs.

This being so, public choice economists argue that bureaucratic corruption is determined essentially by the scope and extent of government intervention in the market process. The market for negotiation and transactions, is created by state regulations. It is argued that "an effective control of corruption must be based on effective institutional reforms (Mbaku, 1994) to change the personnel and the incentive structure as well as minimize government's

intervention in private exchange by some policy of progressive privatization of the existing parastatals.

However, the theory focuses only on the public sector and says nothing about the private and the informal sectors; hence the earlier observation that other theories have to be considered in the analyses of corruption for its total eradication in the body politic. Thus, theories of ethical revolution, materialism, traditional culture and capitalism, should be considered, regardless of their limitations which have been addressed elsewhere. (Nkom, 1983; Nye, 1972; Ejionye, 1983).

The Problems of Embedded and Entrenched Corruption

Scholars at various fora have investigated the causes of endemic and entrenched corruption in Nigeria. Its origin has been attributed to our culture of traditional gifts, the exploitative and predatory role of the colonial state, its racial ideology, inequality and class distinction and how the post-colonial state inherited the state-monopoly capitalism, its bureaucracy and its problems despite the attainment of independence. (Oderinde, 1983).

The argument is that corruption should be related to the type of economic system we operate, its structure, relations of production, and how the resources are distributed to various groups in the society. Yet there is another problem. Is corruption inevitable in capitalism, communism, socialism, Islamism, communalism, feudalism or welfarism? Or is corruption predicated on human nature, man's greed, inordinate desires, selfishness, injustice or his corrupt nature? What do we think can redeem man from his corrupt nature? Is it education, spiritual purification or penal system or sanctions? Is corruption a function of the genetic factor that can be inherited? Does its prevalence have a racial or ethnic undertone?

Corruption is a universal phenomenon in so far as man is confronted with the efforts at satisfying his basic needs of food, shelter and clothing which his government may or may not be able to guarantee. Even if a particular government equitably distributes available but limited resources to satisfy man's basic needs, how does it cope with man's greed which stems from his acquisitive instinct and his acquisitive society? What amount of social reform or cultural revolution can the state embark upon to abolish inherent corruption in man's nature? (Brownsberger, 1983; Onosode, 1993). Judging by the experiences of some advanced countries, a consistent policy of social reform, which addresses the question of social welfare and social security system, to a large extent, minimizes corruption rather than eradicates it totally. Nigeria has a lot to learn from the United States and some European countries, especially Great Britain, in formulating and implementing a comprehensive policy of social welfare and social security to successfully tackle the notorious problem of corruption. (Pynn, 1981; Tindall and Shi; 1989; World Almanac, 2002; Braibanti, 1962).

Bureaucratic and Political Corruption

Since our independence in 1960, bureaucratic and political forms of corruption have been most prevalent in Nigeria with their detrimental effects despite the efforts of both civilian and military governments at tackling them (Offiong, 1983).

Bureaucratic Corruption

This involves payments by politicians and entrepreneurs for favours from bureaucrats who formulate and administer government economic and political policies. Thus, illegal payments are made and collected by those who administer foreign exchange, import licences, industrial establishment, and taxation. Those who want to evade tax obligations and avoid certain requirements for business registration and import licences, master the art of pressing bribes on officials and thereby tempt them to violate public moral standards. Thus,

the indulgence in the practice has made the officials to always expect to be bribed for rendering the simplest obligations (Ikoiwak, 1983). When a patron is not forthcoming, the officials employ their enormous power of delay to compel people to offer bribes. In the passport offices, passport booklets can be hoarded to give an impression of their scarcity to generate some pressure from applicants to offer enormous bribes. Indeed, proper government processes do not approve of or legitimize such bribes and corrupt payments and collections. The same practices prevail in motor vehicle licensing offices, etc. Such practices thereby subvert government's political and economic policies and the general public suffers unnecessarily because the collections by the bureaucrats are not authorized and are not deposited in the public treasury (Rose-Ackerman, 1997).

These practices at all tiers of government undermine the strength of the government and its success in implementing its development programmes. Hence the emphasis is on the efficiency of the bureaucracy and honesty and patriotism of the bureaucrats to ensure the social development of our country. To eradicate corruption in this segment, there is need for constant reforms, training to acquire more skills to improve productivity and the regular review of salaries and wages in response to the inflationary trends. Discipline and supervision should not be compromised and infractions of official rules and regulations should be sanctioned. There should be no hesitation in dismissing those who violate official rules regardless of political or ethnic connections with those in corridors of powers and those who perform with probity should be recommended for promotion as at when due (Rose-Ackerman, 1997).

Political Corruption

Political corruption is prevalent in the activities having to do with election and succession, mobilizing people and manipulating institutions to retain power and office. Political corruption in Nigeria is endemic because electoral politics is

highly monetized and monopolized by men because women lack the financial muscle to compete with men. Because political offices are scarce and limited and the prizes attached to them are high in the Nigerian context, competitions among politicians are seen as games of life and death, hence the inevitability of corrupt practices during elections which include thuggery, hooliganism, violence, rigging, stuffing and switching of ballot boxes and altering of the election results with the offer of enormous bribes. Electoral regulations are intentionally perverted to deprive party candidates and the electorate of their rights and choices, hence political riots and a breakdown of law and order as the cheated party demands justice. (Mbaku, 2003).

The Nigerian judiciary, which is expected to be a neutral institution in investigating electoral malpractices, has also been corrupted by politicians. Indeed, the police and the courts are not exempted as they are notorious for accepting bribes to grant bails and pervert the administration of justice. This does not mean that all the judicial personnel, the police and lawyers, are corrupt, even though a few of them are bad eggs. In Nigeria, a political office or a political appointment is regarded as a principal means of access to wealth. This practice will persist unless the government effects a drastic reform and strengthens new and existing social and governmental enforcement mechanisms. Since the financial implications of political parties impinge on corruption, our government should implement a policy of minimum financial commitment to electoral politics and enforce accountability and transparency.

To achieve the desired result, we should depart from the unrewarding tradition of allowing a time lag between new regulations and their enforcement, which allows prospective violators to induce the politicians and their collaborating lawyers, to discover some loopholes in the laws, and rules which they employ in creating conditions for corrupt practices.

A Common Ground for the Dynamics of Political and Bureaucratic Corruption

Discourses on corruption have designated a synergistic relationship between political and bureaucratic corruption in order to promote the respective interests of the groups involved in the operations of the relevant institutions. Thus, a new political appointee needs the co-operation of particular public servants in perverting rules and regulations to cater for his interests and those of his cronies, ethnic groups, town clubs and religious organizations. This means that the politician must develop the art of peddling influence to maintain a network of collaborating civil servants in several ministries, departments, parastatals, medical and educational institutions. (Johnson, 1997). The principle of reciprocal gifts adequately applies in maintaining this delicate relationship to enable the politician fix his children, relations, friends and their children into schools, even when they lack the required qualifications. His dependants are given appointments in some ministries and parastatals when they do not qualify at all.

The collaborating public servants are also rewarded for their gestures in cash or in kind. The politicians can influence their promotions and award of contracts. In the process, female civil servants receive bribes and engage in sexual immorality with the politicians. In some cases, the latter become their godfathers to whom they run to whenever they are in trouble with the management. Thus, politicians aid and abet malpractices in the civil service and undermine its integrity. So, the rot in the civil service today, its inefficiency, rudeness, indolence, lack of patriotism and notoriety for graft and payroll frauds, should also be blamed on the collaborating politicians and those charged with oversight responsibilities. It was through the collaboration of the bureaucrats that the military had been able to loot the treasury and stash away the stolen public funds in foreign banks since the 1970s.

Civil servants are known to have processed papers through various channels to award frivolous and “ghost” contracts worth billions of naira over the years, whether such contracts were referred to the tenders’ boards or not as required by the regulations. In many states, scholarships have been awarded to “ghost” candidates, while billions of naira have been lost in recent years as a result of payments and gratuities made to “ghost” workers and “ghost” retirees. (*The Guardian* Nov. 6, 2002). We should therefore also blame the civil servants who enabled the military and the civilians to operate foreign accounts in which stolen public money is kept.

Although the Obasanjo government has succeeded in recovering some of the stolen wealth, efforts should be stepped up to persuade the collaborating international organizations and foreign countries to put pressure on the particular banks to repatriate the remaining sums of money.

The Challenges Beyond 2007

Thus far, the problem with Nigeria and its race for economic and technological development with the corollary of improved quality of life for its citizens, is not lack of resources, but the prevalent corrupt practices which divert resources from development programmes to private accounts. Corruption in this regard poses a serious development challenge. In the political realm, it undermines democracy and good governance by flouting or even subverting formal processes. No wonder the populace, who are ignorant of corruption mechanisms, blame the government.

Corruption in elections and in legislative bodies reduces accountability and distorts representation in policymaking: corruption in the judiciary compromises the rule of law, and in public administration results in the unfair provision of services. In general, corruption erodes the institutional capacity of government, as procedures are disregarded, resources siphoned off, and public offices bought and sold. By and large, corruption

undermines the legitimacy of government, trust, tolerance, good governance, due process, accountability and transparency. (Bayley, 1966).

In terms of economic effects, corruption undermines economic development by causing considerable distortions and inefficiency. Corruption causes increases in the cost of business in the private sector through the price of illegitimate payments, management costs of negotiating with officials and the risk of breached agreement or detection. Although, as some scholars argue, corruption reduces costs by cutting red tape, the expectation and availability of bribes can also induce officials to contrive new rules and delays. Corruption also inflates the cost of business and distorts the operating field, protecting firms with connections from competition and thereby sustaining inefficient firms. (Wertin, 1973; Heidenheimer, Johnson, Levine, 1990).

So far, the Obasanjo administration has halted these practices by establishing such anti-corruption agencies as the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Independent National Electoral Commission, (INEC), the Judicial Commission of Enquiry (JCE), the National Code of Conduct and National Assets Investigation Panel, among several others. These institutions have performed well in accordance with their respective terms of reference and in compliance with the declaration of the mission statement of President Obasanjo that the era of sacred cows operating above the law had gone for good. (Akanbi, 2005; *The Punch*, Dec. 8, 2003).

The challenge of this mission statement is yet to be seriously addressed on account of the general opinion that the agencies have been employed for selective investigation, apprehension, prosecution and expropriation of some perceived and actual enemies of the president. While the

actions of some incumbent and ex-public officers and ministers have been called to question, the ex-heads of state and ministers are still not queried when their wealth and assets are believed to have been illegally acquired while in office. (Onyeani, 2007).

The incoming administration in 2007 and beyond should empower the aforementioned agencies to perform better without any legal and constitutional constraints which they experience now. So far, it is the federal government that has consistently confronted political and bureaucratic corruption in the public sector. The agencies should be given expanded terms of reference to cover the private and unorganized sectors as well as adequate funding and protection. Their operations should extend to the state and local government levels where corrupt activities are very rife.

The relevant agencies should enforce anti-corruption rules and regulations, reforms, accountability and transparency in all tiers of government, and those charged with the oversight responsibilities are to be sanctioned for any dereliction. The due process, which has enabled the federal government to save over ₦100 billion from overestimated contracts, should be enforced on other tiers of government and the existing parastatals which serve as the haven of corrupt personnel. Indeed, all remaining unviable parastatals should be privatized or phased out.

Henceforth, both incoming and departing incumbent office holders should declare their assets and the general public must be allowed to have a say in case of any dishonesty in such declarations. To prevent political and bureaucratic corruption, political appointments should be made less attractive. The emphasis should be patriotic service rather than perquisites attached to the office. In fact, the size of government should be reduced while the private sector is allowed to take over government's socio-economic functions.

There should be a sustained dialogue between the government and the labour union, to improve workers' conditions of service. Oftentimes, tariffs of electricity supply, air travel, postal service, medical service, water supply and road transport, are hiked without any commensurable increase in workers' salaries to cushion the effects of inflation. Henceforth, the government should establish the modalities for correcting this anomaly and prevent the recurrent disruption in output and services as a result of labour unrest. In other words, workers' salaries and allowances should be subjected to upward reviews to enable them enjoy a better quality of life. To a large extent, an adequate take-home pay will minimize corrupt practices.

In recent years, payroll fraud, perpetrated through 'ghost workers', has cost the government at all levels substantial revenue losses through the syndicated operations of the accounts and bursary departments. To arrest the trend, payment at sight had been devised, yet the fraudulent practice has continued unabated. The government has to review the oversight responsibilities of the senior staff of the departments where payroll frauds occur and ensure that payment of salaries and gratuities of retirees are computerized.

Another constitutional factor that engenders corrupt practices in the executive arm of government is the immunity clause which has been abused by various governors (Ige, 2005). Some have been removed from office while others are still treated as sacred cows. The Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC), both established by the Obasanjo administration, could be credited with some landmark achievements in the war against corruption. (Akanbi, 2005). But the two organs have been regarded by the public as instruments of victimization and selective punishment by the presidency; hence the persistent clarion call for their independence to be guaranteed by some

relevant constitutional amendments. In Anambra, Plateau, Bayelsa, Ekiti and Enugu states, the EFCC initially operated according to the whims of the presidency. In Anambra and Oyo States, governors were quizzed on electoral and financial frauds but their respective political godfathers were left out. This is double standard par excellence. But for the effective protests by the press, the public and the Nigerian Bar Association, the breach of rule of the law would have persisted in the other states.

Happily enough, some bills have sailed through the National Assembly seeking to amend the electoral law in order to curb the excesses of the Independent National Electoral Commission (INEC) and guarantee its independence. Similar bills have also been tabled in respect of both the EFCC and the ICPC to liberate them from the influence of the presidency and make them serve the public interest by fighting the anti-corruption battle without bias. The EFCC and ICPC should be decentralized to extend their anti-corruption searchlights to states and local government areas, where fraudulent practices are rife. Indeed, more anti-corruption units must be created in government establishments and parastatals to operate in collaboration with Non-Government Organizations (NGOs), the civil society, religious organizations, the judiciary and the police.

Recently, a Senate Committee recommended about sixteen amendments to the EFCC Act of 2004 to guarantee its independent existence and operations. The Senate has rejected the EFCC's indictment of over one hundred and thirty candidates as the basis for their disqualification from the April 2007 elections. Similarly, INEC has been declared as lacking the relevant constitutional powers to disqualify a candidate from contesting an election, hence the Senate's call for a judicial interpretation of Section 137 of the 1999 Constitution which deals with the eligibility of candidates for election.

Conclusion

Corruption, in all its ramifications, is a major cankerworm that has eaten deep into the nation's fabric and undermines our economic growth. Any success at drastically minimizing corrupt practices in the body politic will no doubt enable us deploy our financial, mineral and agricultural resources to solve a myriad of socio-economic problems like poverty, unemployment, derelict infrastructure, the endemic HIV/AIDS, dysfunctional power supply and poor public services. To achieve these ideals, the public-choice approach must be employed most effectively for a corruption clean-up. However, the use of other aforementioned methods must be complementary if all segment of our society are to be involved in the war against corruption in order to lift Nigeria out of its shameful rating by Transparency International as one of the three most corrupt nations in the world. Indeed, the presidential assent to the proposed information bill will grant the media a rare opportunity to play a crucial role in redeeming the image of Nigeria by winning the anti-corruption war.

Beyond 2007, a new democratically elected federal government must uphold the rule of law, due process, transparency and accountability. Government must enforce the rules that regulate the activities of individuals and organizations; hence the necessity of educating the citizenry about our country's laws and institutions to enable them know, claim and defend their rights in interactions with bureaucrats, entrepreneurs, voters, politicians, lawyers, police, etc. As a matter of urgency, all rules that provide an incentive system and promote lucrative opportunism in socio-political relations should be phased out. In effect, appropriate procedures will facilitate an effective control of rent-seeking and bureaucratic corruption. Thus, the herculean exercise of frequent reforms by the present central administration must be sustained, to cover all sectors of the economy with particular bias to the civil service, the judiciary, army, customs, immigration and the police. Indeed,

the new administration must aspire to out-achieve the goals of the predecessor regime by adopting some innovative and effective measures to drastically curb corruption.

The EFCC, ICPC, INEC, NAFDAC and other agencies must be strengthened, restructured and decentralized as may be required by the changing socio-economic circumstances to stimulate the collaborative efforts of the civil society and the NGOs. As our society is becoming more complex and sophisticated due to the overwhelming impact of globalization, the government must establish a large-scale intelligence system that will effectively penetrate the bureaucracy, national and state assemblies, the judiciary and the private sector, to expose and prosecute violators of the rule of law and perpetrators of corruption.

Another challenge before the new administration is the necessity of investigating the corrupt activities of many agencies and governmental organizations before and after 1999. These include the Directorate for Social Mobilization (MAMSER) and the Directorate of Food, Roads and Rural Infrastructure (DFRRI). These agencies created jobs for the supporters of the military in power. They maintained a high profile in ostentatious living and brazen display of ill-gotten wealth. As they operated without any enforceable accountability, their expensive programmes failed. The general public would want to know more about the 52 boxes of Nigerian currencies that were imported to Northern Nigeria from Saudi Arabia in 1984; the riddle over the \$12 billion realized from the sale of crude oil during the Gulf War; the financial scandal on the Abuja National Stadium and the All-Africa Games tagged "COJA" as well as the mismanagement of the operation of toll gates. All those engaged in fraudulent activities should be exposed and prosecuted to teach others a hard lesson.

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