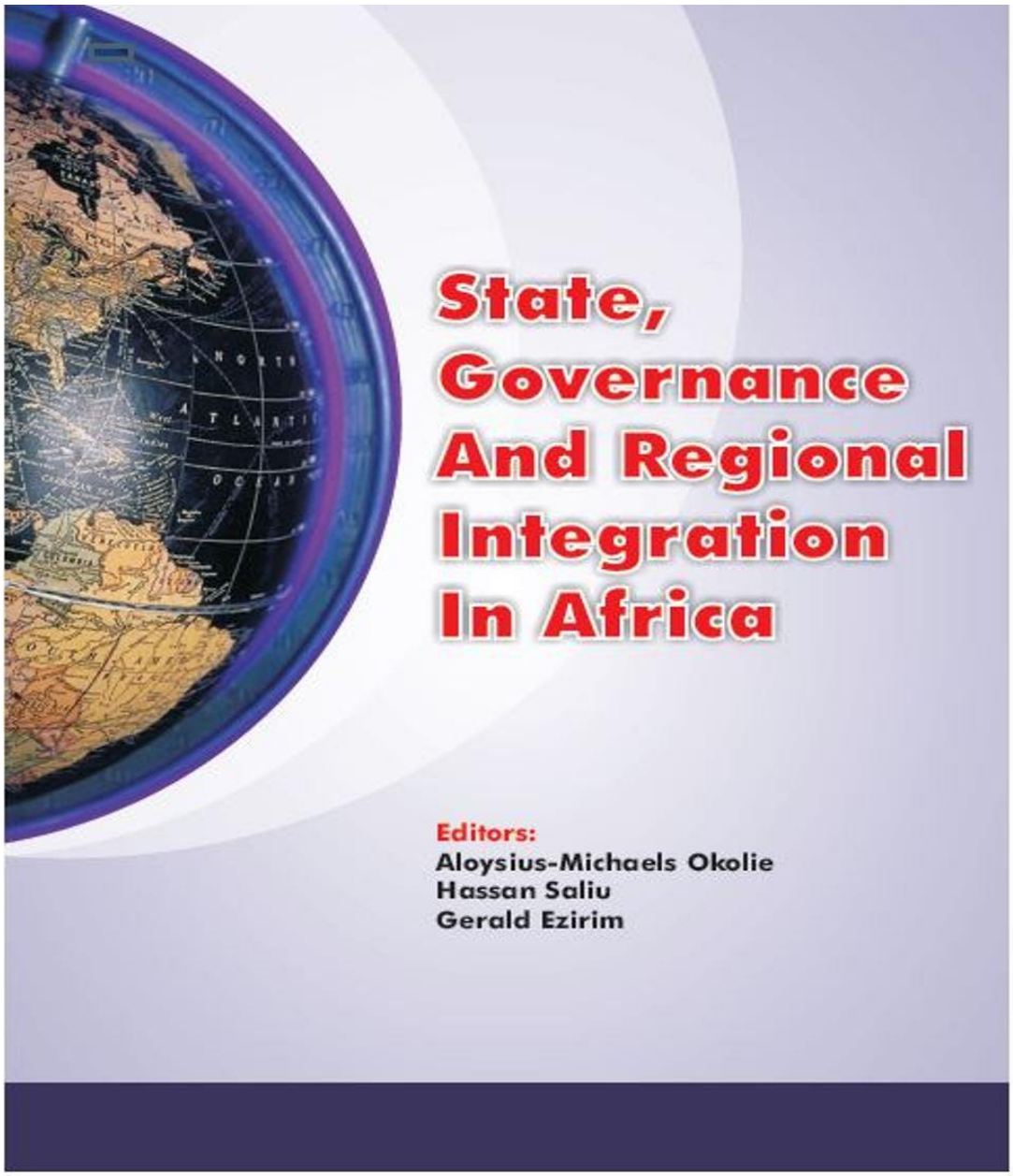

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An Assessment of Nigeria's Fight Against Corruption

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Abstract
There is convergence of opinion among many scholars and policy practitioners that corruption impacts negatively on governance. Its impact has always witnessed different manifestations on territories and in different epochs. This realisation has necessitated global and country specific efforts towards its curtailment. In Nigeria, successive governments have made efforts to tackle this menace through series of probes and institutionalising the fight against corruption yet, the country has remained 'fantastically corrupt'. This paper assesses the anti-corruption war in Nigeria. By examining extant literature on the subject, it examines various efforts at combating the menace especially in contemporary times. The paper argues that institutional and administrative levity in handling corrupt cases among others impacts negatively on the fight against corruption. The overall consequence of this is a declining confidence by citizens in the fight against corruption. Attainment of sustainable gain in fighting corruption, therefore, requires both institutional and attitudinal reforms on the part of the government and citizens alike.

Keywords: Corruption, leadership, institution, governance, reforms

Introduction

Corruption, a universal phenomenon, which has been conceived as perversion of integrity through undue influence, moral depravity and unworthy behaviours that runs contrary to the duties and responsibilities of an office for private gains (Muhammad, 2011; Abass, 2007; Arafeh, 2005; Akanbi, 2004; Lipset and Lenz, 2000) has been a major influence in Nigerian government and politics since independence in 1960. It is on record that between independence and date, Nigeria has experienced two epochs of military authoritarianism. That is between 1966 and 1979 and between 1983 and 1999. It is interesting to note that military interventions in politics have been hinged on the need to stamp out corruption, favouratism, abuse of office and general economic mismanagement. Unfortunately, at the time of their exit (either through another military counter coup or self-abdication of office), these military regimes are observed to wallow in the waters of corruption and abuse of office (For graphic accounts see, Ogbona, 2004; Osaghae, 1998; Fayose, 2005). While no one is sure of when and where corruption first started in Nigeria (Gashinbaki, 2004), opinion crystalise that it is a function of the country's historical and political factors such as colonialism, natural resource wealth; legacies of military dictatorship, obsession with materialism among Nigerians, compulsion for a short cut to affluence, glorification and approbation of ill-gotten wealth by the general public, low morale and cultural ethics, weak enforcement mechanism, poor reward system

for hard work, strong kinship ties among others (Muhammad, 2011, Gashinbaki, 2004; Mobolaji & Atoyebi 2004; Ndiulor, 1999).

But irrespective of what may have accentuated corruption in Nigeria, an important point is that it has had serious impact on the country's democratic and economic advancement. In this context, it is not out of place to insinuate that it is the realization of the impact of corruption on the country's growth that successive governments have put in place mechanisms for combating it.

From a historical point of view, the mass sack in 1975 of over ten thousand civil servants by the Murtala Mohammed military regime; Jaji declaration by then Military Head of State, General Olusegun Obasanjo in 1977; the Ethical Revolution of President Shehu Shagari in 1981; War against Indiscipline by the General Buhari administration in 1984 and the National Orientation Movement (NOM) and Mass Mobilization for Social Justice and Economic Recovery (MAMSER) of the Babangida administration in 1986 and 1987 respectively and; the War Against Indiscipline and Corruption in 1994 by the General Sanni Abacha government. However, aside the action of the Murtala government in 1975, successive attempts were targeted at citizens' re-orientation and not necessarily to prescribe punishment for offenders. It must also be stated that although the establishment of the Financial Intelligence Unit under the Nigerian police force was also directed at policing economic crimes and fight corruption in the country, the unit cannot be said to have lived to expectation. The establishment of the Independent Corrupt Practice and Other Related Offences Commission, ICPC, and the Economic and Financial Crimes Commission, EFCC, in 2000 and 2003 respectively with powrrs to prosecure corruption cases are therefore, significant landmarks in the fight against corruption in Nigeria. This is because first, it was an attempt to institutionalise the fight against corruption and second, a demonstration of the civilian government's commitment to its statement on the need to tackle corruption headlong (Obasanjo, 1999).

Consequently, the ICPC was inaugurated on September 29th, 2000 by the Nigerian President, Chief Olusegun Obasanjo. The main duty of the commission is to receive complaints, investigate and prosecute offenders. Other duties include education and enlightenment of the public about and against bribery, corruption and related offences. The commission also has the task of reviewing and modifying the activities of public bodies, where such practices may aid corruption. Also, the EFCC was established via the EFCC Act of 2002 and was formally inaugurated in April 2003 (the 2002 act has undergone several reviews till date. The latest being the EFCC establishment Act, 2010). The difference between the two bodies lie in the fact that the ICPC focuses on curbing bribery and corruption in the civil/public service and is limited in time to those offences committed from year 2000 while the EFCC is primarily charged with the responsibility of enforcing laws relating to banking, money laundering, advance fee fraud (419), miscellaneous offences and any other laws or regulations relating to economic and financial crimes, including the criminal code and the penal code and does not have any time limitations as to when a crime was committed. Although these two bodies were established by the government, the activities of the EFCC later overshadowed that of the ICPC as it became the symbol

of anti-corruption war in Nigeria. Two things further ginger the swagger of the commission. The first is the government's jingle that with EFCC, there is no sacred cow in the fight against corruption and second was the popular saying among Nigerian that "fear of the EFCC is the beginning of wisdom". Thus at initial stage, there were high hopes and expectations from the citizens and even the country's friends but this was soon to be dashed as witnessed in the declining fortune of these agencies and the perception that despite these efforts, the country is still 'fantastically corrupt'. What then is the state of the anti-corruption war in Nigeria? What is/are responsible for the fluctuation in the fight against corruption? What constitutes the way out of this quagmire?

The Universality of Corruption: Conceptual and Theoretical Discourse

There is no doubt that attempts at conceptualizing corruption have continued to grow with increasing topicality of the phenomenon. While some tend to see it generally in terms of abuse of power or trust for narrow personal or sectional interests (Akanbi, 2004; Sen, 1999), some others conceived of it in terms of the acceptance of money or money's worth for something under one's duty (Ogbonna, 2004). Yet, it has also been conceived as the deliberate violations, for gainful ends, the standards of behaviour, legally, professionally and ethically established in private and public affairs (Usman, 2001). However, the above definitions merely reflect a divergence in emphasis. Implicit in all is that corruption is a social phenomenon which profits the individuals that indulge in it at the expense of the general public or state as a whole.

Corruption is a universal phenomenon that has its manifestations in time and space. This is because, the ill of corruption have been affecting societies from time immemorial much as it has no geographical limitation. For instance, as far back as the eighteenth, the British Statesman, Edmund Buke, had denounced corruption in the English society as the perennial spring of all prodigality which loads the society with more than a million of debts. According to him, it takes away vigour from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution (quoted in Wilson, 1999). Similarly, Usman (2001) had observed that the problem of corruption has been of decisive political significance in African societies long before colonialism.

In his own writing, Dike (2003) attempts what he considers a holistic view of corruption by noting its many forms. According to him, these include political corruption (Grand), Bureaucratic corruption (petty) and electoral corruption. The first also known as corruption of greed he noted, takes place at the highest levels of political authority and involves manipulation of policies and procedures to benefit politicians and legislators. The second, which occurs in public administration or the implementation end of policies, is the low level and street corruption such as the types of corruption citizens encounter daily at the hospital, schools, police, taxing officers or when obtaining a business from the public sector through inappropriate procedure. Electoral corruption includes purchase of votes, promises of office or special favours, coercion, intimidation and interference with freedom of the electoral process (Dike, 2003; 2001). Other forms of corruption noted by Dike (2003) include

Bribery, (kickbacks, pay-off, sweetness, greasing of palms e.t.c); fraud (trickery, swindle and deceit, counterfeiting, racketing, smuggling and forgery); Embezzlement; Favouratism and; Nepotism. The above enumerated forms notwithstanding, corruption covers a wide spectrum of acts which in most cases involve two or more parties either in public and/or private organizations. Equally, the individual or parties involved usually engage in acts which amounts to perversion of integrity and runs contrary (or unacceptable) to the powers, duties and responsibilities of an office with intent to derived some gains for themselves individually, and/or collectively. But as Surjadinata (undated) opined, in many cases, a state determines whether a practice is acceptable or abhorrent on the basis of culturally specific values, and the laws promulgated there under reflect such norms. This perhaps explains differences that may exist in the content or perceptions of corruption among countries. In Nigeria, inkling into what constitutes corrupt practices could be noticed in the address of president Obasanjo while inaugurating the ICPC in 2000. According to him:

> Corruption covers a wide spectrum of acts and not just the simple act of giving and receiving of bribes. Corruption covers such acts as use of one's office for pecuniary advantage, gratification, influence peddling, insincerity in advice with the aim of gaining advantage, less than a full day's work for a full day's pay, tardiness and sloviness (Obasanjo, 2000).

From the various submissions, it can be inferred that corruption is a situation of interaction between two or more parties in public and / or private organizations to pervert integrity or a state of affairs through influence peddling, bribery, favoritism, moral depravity or other forms of behaviours that runs contrary to the powers, duties and responsibilities of an office with the goal of deriving some gains for themselves or others individually or collectively (Muhammad, 2011). This perception according to Muhammad (2011) recognizes that the intent of corrupt acts is to benefit narrow private or group interests. It also encapsulates all forms of corruption within the public and private sectors. To this extent, it includes activities of persons in their private and official capacities as well as that of organizations or corporate entities that amounts to deviation from established standards.

Overview of Anti-Corruption Activities in Nigeria

As earlier noted in this work, corruption afflicts all countries of the world hence, the general concern toward its eradication. This drive has also stimulated research by scholars who have noted various social, political and economic factors that gives rise to it as well as its consequences on societies (Catham House, 2017; The Tide, 2017; Oluwa, 2012). These includes, unnecessary glorification of materialism, a system of bankrupt capitalist values that is prevalent today, great inequality in wealth, weakness in the legal framework and, the self-sustaining circle of corruption. What is apparent is that while it may be pretty difficult to narrow down the causes of corruption to some few factors, it is generally believed that it undermines the values of good governance and sustainable development. Equally as corruption develops, so also must societies device means of curbing it. This perhaps

explain why in spite of the probes and arrests in Nigeria, corruption have continued to thrive in virtually all levels and facets of the country's life.

In specific terms, Nigeria since its independence in 1960 has not been able to dissociate itself from the canker worm of corruption. In fact, corruption, mismanagement, abuse of office and general lack of accountability has been a recurring theme in the country's government and politics to the extent that the greater the development plans, the greater the extent of corruption through siphoning of developmental funds into private accounts (Ognonna, 2004). Indeed, every policy tend to be a scam while regulations turn out to be source of rent for the political elites.

Contemporary experiences have revealed that one of the major sources of discontent and outrage in Nigeria today is the widespread and growing public corruption in the country. While no one is sure of 'when and where corruption first started in Nigeria' (Gashinbaki, 2004), it undermines the values of democracy and good governance, jeopardizes social, political and economic development and as such, constitutes a threat to societal existence. At one level, the drive to combat corruption has propelled governments, individually and collectively under the aegis of international cooperation, into putting up strategies aimed at combating the scourge of corruption. These include the establishment of institutions and special agencies at national level to investigate and prosecute corruption cases while at the supranational level, it includes the UN General Assembly's adoption of an international code of conduct for public officers and declaration against corruption and bribery in international commercial transaction; the Global coalition for Africa's 25 principles to combat corruption in African countries that was adopted in Washington D. C. in February 1999. At another level, it has propelled countries into adopting various measures to curb the pervasiveness of corruption. For example in Nigeria, most recent efforts in this direction has witnessed the establishment of institutions to help tackle the menace of corruption. These include the establishment of Independent Corrupt Practices and Other Related Offences Commission (ICPC) in 2000 and the Economic and Financial Crimes Commission (EFCC) in 2003.

The Independent Corrupt Practices and Other Related Offences Commission (ICPC) was inaugurated on September 29th, 2000 by former Nigerian President, Olusegun Obasanjo. The main duty of the commission is to receive complaints, investigate and prosecute offenders. Other duties include education and enlightenment of the public about and against bribery, corruption and related offences. The commission also has the task of reviewing and modifying the activities of public bodies, where such practices may aid corruption. As part of its education and public enlightenment campaign, the commission embarked on some programmes that it believed can positively impact on the people. This includes the organization of seminars and workshops, paper presentations, youth development programmes and media activities. Similarly, in line with its preventive strategy, at the instance of the Commission, the Federal Executive Council approved the creation of Anti-corruption and Transparency Monitoring Units (ACTUs) in all government organizations as proposed by the ICPC vide circular No OHCSF/MSO/192/94 of 2nd October 2001.

ACTUs are presently operational in 145 Ministries, Agencies and Departments to complement the duties of the Commission (ICPC Report). Also, between 2000 and 2005, the commission was able to file 49 criminal cases, involving 104 individuals in various courts in the country.

On the other hand, the EFCC was established via the EFCC Act of 2002 and formally inaugurated in April 2003. Equally, the 2002 act has been repealed and now replaced by EFCC (establishment) Act, 2004 as contained in section 44 of the new act. Difference between the two bodies lie in the fact that the EFCC is primarily charged with the responsibility of enforcing laws relating to banking, money laundering, advance fee fraud (419), miscellaneous offences and any other laws or regulations relating to economic and financial crimes, including the criminal code and the penal code. The EFCC does not have any time limitations as to when a crime was committed. Also, the EFCC has power to prosecute directly without going through the attorney General's office. On the other hand, the ICPC focuses on curbing bribery and corruption in the civil/public service and is limited in time to those offences committed from year 2000. It must also be stressed that, although the ICPC predates the EFCC, the latter has come to be the number anti-corruption agency in Nigeria by arresting and prosecuting notorious fraudsters including political office holders. Official estimate by the commission reveals that between 2003 and August 2007, it handled about 225 cases with about 97 convictions already secured (EFCC, Undated).

But apart from institutional efforts, the President in 2015 set a Presidential Advisory Committee Against Corruption, PACAC. The seven-man committee is to *inter alia* – promote the reform agenda of the government on the anti-corruption effort and to advise the government in the prosecution of the war against corruption and the implementation of required reforms in Nigeria's criminal justice system. The Committee in its 2016-2017 annual report noted that since its establishment, it has held a number of activities such as consultations with relevant stakeholders, submitted advisories and interfaced with all key organs of government towards advancing the anti-corruption agenda of the government (PACAC, 2017). However, in spite of various mechanisms in place, one observable trend is that corruption still thrives at all levels in the country. The situation obviously suggests the existence of other variables that tend to eclipse the anti-corruption was in Nigeria. These are to be explored in the next section.

Understanding the Challenges

Errors on the part of anti-corruption agencies in prosecuting corruption cases is a major limiting factor in the fight against corruption in Nigeria. For instance, in the case of Justice Ademola who was arraigned by the EFCC on an 18 count charge bordering on corruption, the trial judge dismissed all the charges on the grounds that the prosecution failed to prove the allegations beyond reasonable doubt. Although the federal government, through its Attorney General has appealed against the ruling, it has nonetheless evoked divergent views from the citizens. But what can be made out of the scenario is that either the prosecution has not done its work well or there is possible influence on the Judiciary from some other forces. Similarly, the EFCC

traced the sum of $5.9 million to the account of Mrs Patience Jonathan as proceed of crime. Although the EFCC applied for an order to freeze the account but the respondent filed an application to unfreeze the account. Since this went without a challenge from the EFCC, the respondent's prayer was granted by the court. Related to this is lack of political will on the part of government. Lamenting this malady, a former Chief Justice of Nigeria, Mahmud Mohammed, once noted that high profile cases especially, often suffer neglect because of the lack of "political will" by the Executive, which controls the prosecuting agencies. In his view, most of the lawyers lack the experience and therefore, there is the need to recruit more lawyers, who should be adequately trained to handle more cases on behalf of the state (Ikhilae, 2015). According to him, previous the Attorney General of the Federation would often lead teams of legal counsel in high profile cases so as to demonstrate the resolve of the government to enshrine the Rule of Law, sadly however, recent Attorney Generals have become less inclined to do this (Ikhilae, 2015). This situation is compounded by a compromised and overburdened Judiciary coupled with institutional weakness which reflects in attempts to influence the trend of court processes through bribing and intimidation of judges. The recent discovery of corruption in the judicial arm of government is a reflection of this compromise.

While to some, the efforts of the current civilian administration of Muhammadu Buhari in the fight against corruption may be commendable (The Tide, 2017), there is as well a notion that corruption is "fighting back" in Nigeria (Falana, 2017). This conclusion is informed by the fact that many high profile cases have been lost or remained unresolved. Such unresolved high profile cases include the N5bn alleged fraud case of a former governor of Enugu State, Chimaroke Nnamani, which began in May 2007and that of a former Chairman of the Senate Committee on Health, Iyabo Obasanjo-Bello, who the EFCC accused of illegally taking N10m from the N300m unspent funds in the 2007 budget of the federal Ministry of Health among others. Admittedly, the government may not be blamed out-rightly for this, rather, defense counsels in such cases often deploy many tactics to circumvent the dispensation of Justice. This is achieved through intimidation of Judges (accusing them of incompetence or bias) or frustrating Judges and prosecution counsels through injunctions and other forms of legal rigmarole. Consequently, many cases fizzle out naturally without any judgment coming out of it even though the arrest and arraignment of such high profile individuals may have generated some excitement among many citizens. The implication of this is a travesty of the Justice system in Nigeria. Although a bill that would fast track prosecution of corrupt cases has been sent to the National Assembly, it is yet to be passed by the lawmakers.

Executive interference is another hindering factor in the fight against corruption in Nigeria. This insinuation was also noted by the Human Rights Watch in one of its report when it noted that the anti-corruption war in Nigeria might not yield the desired result if the executive arm of government and the political establishments continue to interfere in activities of anti-corruption agencies. Such interference usually take the form of selective treatment of cases or loss of interest in prosecuting

some figures. A case in point is that of Federal Government versus a former Minister, Orubebe, who was charged by the Federal government with criminal diversion of N1.9 billion from the money earmarked for the construction of the east-west road. The ICPC was prosecuting the case. But at a point, the Honourable Attorney-General of the Federation filed a *nolle prosequi* seeking to withdraw the case. While no other reason was stated, this he claimed is pursuant to his powers under section 174 of the Constitution. Consequently, the case was struck out while the defendants were discharged and acquitted.

Also worthy of mention is the issue of plea bargain which has become a major strategy in the anti-corruption war. It is a negotiated agreement between a prosecutor and a defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple charges in exchange for some concession by the prosecutor, usually, a more lenient sentence, or a dismissal of the other charges (Adetomiwa, undated). While the incorporation of plea bargaining as a component of the Criminal Justice System is gaining currency around the world with some scholars noting its several advantages to the Justice system such as speedy dispensation of justice, decongestion of prisons and reduction in the cost of prosecution among thers (Adetomiwa, undated; Adegbite, undated; Awolowo, 2017), scholar have noted that it may may potentially result in a backdoor perpetuation of corruption by errant public officers (Awolowo, 2017). The practice may also lead to a situation whereby the prosecution will overstate the charge in the first instance so that when it is time for bargaining, it would have a stronger bargaining power (Awolowo, 2017). The plea bargain mechanism may also lead to unnecessary expansion in the powers of the Attorney-General to discontinue criminal proceedings in court as empowered by section 174 of the Nigerian Constitution. In other words, while plea bargain may have its advantages in the administration of criminal justice, Nigeria seems not prepared for such mechanism because of the high propensity to abuse it. Equally, there are no legal checks in place to check its abuse. Indeed, the idea of plea bargain is such that in the case of embezzlement of public funds, the offender will have a lighter punishment after returning his loot. However in Nigeria, the offender keeps his loot after returning a paltry amount. Perhaps the case of Lucky Igbinedion can help substantiate this further.

Lucky Igbinedion was the governor of Edo state between 1999 and 2003. In 2008, he was arraigned by the Economic and Financial Crimes Commission, EFCC, before the Federal High Court, Enugu on a 191- count charge of corruption, money laundering and embezzlement of N2.9b. however, in a plea bargain arrangement, the EFCC through its counsel Mr. Rotimi Jacob reduced the 191- count charge to one - count charge and in return, Lucky Igbinedion will refund N500m, 3 properties and plead guilty to the one - count charge. Eventually, he was convicted on the one- count charge and ordered to refund N500m (from 2.9 billion naira), forfeit 3 houses and sentenced him to 6 months imprisonment or pay N3.6m as option of fine which he promptly paid. Not long after this, the EFCC filed a fresh 66- count charge of corruption and money laundering against Lucky Igbinedion and others at the Federal High Court, Benin City only for the case to be dismissed on the grounds that it would

amount to double jeopardy and abuse of court process to try the former governor again as he had in 2008 entered into a plea bargain with the commission at the Federal High Court Enugu. The absurdity of this practice raises some mind boggling moral questions which Odia (2011) summarised as:

> (i) was it a good bargain for the commission to compress and reduce 191-count charge to one-count charge?, (ii) was it a good bargain for the commission to accept N500m and 3 houses and allow Lucky Igbinedion to keep N2.4b and other properties?, (iii) was the option of fine a part of the plea bargain or it was imported into the judgment by the presiding judge?, (iv) was it a good bargain for the commission to charge Lucky Igbinedion on a mere non-disclosure of an account with GTB when among the 191-count charges there were weightier and more serious count charges on corruption and embezzlement?, (v) was it a good bargain to enter into an oral agreement with Lucky Igbinedion in the circumstances of the case? (vi) was it a good bargain to let Lucky Igbinedion off the hook on a N2.9b fraud with an understanding not to prosecute him again when there was a N25b fraud pending against him?

Indeed, many Nigerians were disappointed about the efficacy of the plea bargain arrangement with the Igbinedion case in helping to tackle the menace of corruption in Nigeria.

A similar instance was the case of Mrs Ceceila Ibru, fromer Managing Director of Oceanic Bank who the EFCC arraigned on a 25 count charge bothering on financial crimes. She entered into a plea bargain with the prosecution and pleaded guilty to a lesser three-count charge. She was thereafter, convicted on the three-count charge and to forfeit her assets amounting to about N191billion. She was sentenced to six months on each of the three counts which are to run concurrently. While the plea bargain arrangement is not a misnomer in legal practice, underdevelopment of the Nigerian legal system coupled with political influence are working against efficacy of the arrangement in Nigeria. One major implication of this trend is declining confidence of citizens in the anti-corruption war.

Declining confidence of citizens in the Anti-corruption war stems from the above challenges and the fact that recoveries from corrupt individuals were not disclosed by the government despite calls for such from the citizens. While the current administration claim to have recovered billions of Naira from corrupt individuals, there is the need for disclosure of the specific amount. Unfortunately, this has not taken place. Second, there is the perception that the federal government was shielding some senior members of the administration, who were alleged to have engaged in corrupt misconducts, from been prosecuted by anti-graft agencies (Jannah, 2017). Before his eventual removal from office, the former Secretary to the Government of the Federation, Babachir Lawal was figured in series of corrupt cases but was never investigated. Consequently, use of double-standards in the prosecution of the war against corruption as perceived by the people is undermining the anti-corruption war. Also, there is a widespread perception that judges were easily bribed

and that litigants could not rely on the courts to render impartial judgments. This flows from the recent discovery of corrupt tendencies among judges of the supreme court of Nigeria attests to this fact. Equally, the use of plea bargain arrangements and the manner of its execution by anti-graft agencies is a source of worry for many citizens.

Conclusion

Corruption in Nigeria is pervasive from all evidences available. Equally, the negative effects on the social, political and economic development of the country is not in doubt. This created the awareness and need to tackle the menace headlong. While citizens are aware of the possible benefits available in a corruption free society, the government is looked up to provide the lead. Indeed, successive governments since Independence of the country in 1960 have been making efforts in this direction through various policies and programmes. Recent efforts include the establishment of the ICPC, the EFCC and PACAC among others. Unfortunately, all these seem to be sterile as corrupt cases continue to be on the rise while citizens continue to lose confidence in the anti-corruption war. The implication of this is that the fight against corruption may be on the decline due to the myriad of challenges that tend to overshadow the fight. These includes both institutional and administrative obstacles. Therefore, there is the need for the reform of these institutions and administrative procedures in order for Nigeria to be able to make mark in the fight against corruption.

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