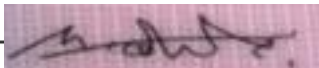


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Thesis Word Count: (excluding ancillary data)	79,443		
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Institute of Criminal Justice Studies

OCCUPATIONAL FRAUD: A Comparative Study of Ghana and Nigeria



MICHELLE ODUDU
BA, MSc

The thesis is submitted in partial fulfilment of the requirements

for the award of the degree of Doctor of Philosophy of the

University of Portsmouth

Submitted 31 Oct 2017

*WHILST REGISTERED AS A CANDIDATE FOR THE ABOVE DEGREE, I
HAVE NOT BEEN REGISTERED FOR ANY OTHER RESEARCH
AWARD. THE RESULTS AND CONCLUSIONS EMBODIED IN THIS
THESIS ARE THE WORK OF THE NAMED CANDIDATE AND HAVE
NOT BEEN SUBMITTED FOR ANY OTHER ACADEMIC AWARD*

Abstract

Ghana and Nigeria are known for their high levels of Occupational Fraud in public offices. The governments of both countries have emphasised their commitment to reducing the losses caused to the state by pledging their allegiance to the counter fraud agencies to help tackle Occupational Fraud. Yet it seems that the prosecution of such cases are ineffective as high-profile fraudsters can operate with immunity and their cases remain unprosecuted.

This research project was based on in-depth examinations of 50 occupational fraud cases, involving high profile individuals in both countries. In doing so, it established the characteristics of those who were prosecuted; the extent to which prosecutions were effectively managed; the barriers to effective prosecutions; and the similarities or differences between the occurrences in both countries.

The aim of the project is to examine the practice of, and barriers to prosecution of large scale occupational fraud of those in senior public positions in Ghana and Nigeria. The study drew on the experiences of stakeholders such as defence and prosecution barristers, academics and fraud analysts via semi-structured interviews and questionnaires. 13 interviews were conducted in Ghana and in Nigeria where respondents were recruited using a snowball approach. Questionnaires were physically distributed: 20 of the staff at EOCO and 10 to NGO staff in Ghana; 6 and 5 came back respectively.

The empirical data collected suggests that there is no lack of will on the agencies' part to at least commence proceedings. However, various impediments hamper a successful completion of prosecution. Challenges were more evident in Nigeria, where agencies are less effective at retrieving stolen assets and changing social norms. This is further compounded by several cultural and political factors which create limitations leaving many cases 'still pending'.

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ABBREVIATIONS

AAPPG	Africa All Party Parliamentary Group
ACFE	Association of Fraud Examiners
AG	Attorney General
AGOA	Africa Growth & Opportunity Act Program
AML/CFT	Anti Money Laundering and Combating the Financing of Terrorism
AMIS	African Union Mission in Sudan
BSA	British Sociology Association
BSC	British Society of Criminology
CDD	Centre for Democratic Development
CHRAJ	Commission on Human Rights and Administrative Justice
CMA	Computer Misuse Act
CPC	Consumer Protection Council, Nigeria
CPI	Corruption Perception Index
DANIDA	Danish International Development Agency
DFID	Department for International Development (United Kingdom)
DPA	Data Protection Act
DPP	Department of Public Prosecutions, Nigeria
EFCC	Economic and Financial Crimes Commission, Nigeria
EITI	Extractive Industry Transparency Initiative
EC	Electoral Commission
ECOWAS	Economic Community of West African States
EOCO	Economic and Organised Crime Office, Ghana
FCO	Foreign and Commonwealth Office
FTC	United States Federal Trade Commission, FTC
FATF	Financial Action Task Force
FTC	Federal Trade Commission
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
GACC	Ghana Anti-Corruption Coalition
GII	Ghana Integrity Initiative
GOG	Government of Ghana
HRW	Human Rights Watch
ICG	International Crisis Group

ICPC	Independent Corrupt Practices and Other Related Offences Commission
ICIJ	International Consortium of Investigative Journalists
ICJ	International Court of Justice
ICJS	Institute of Criminal Justice Studies, Portsmouth
ICCr	International Criminal Court
ICSPA	The International Cyber Security Protection Alliance - Advise Ghana's government how to tackle cybercrime
ICPC	Independent Corrupt Practices and Other Related Offences Commission
IFC	The International Finance Corporation: the private sector financing arm of the World Bank Group
IMF	International Monetary Fund
J4A	Justice for All
MDA	Ministries, Departments and Agencies
MDGs	Millennium Development Goals
MIGA	Multi-lateral Investment Guarantee Agency: World Bank Group
NACAP	National Anti-Corruption Action Plan
NASS	The National Assembly, Nigeria
NCC	Nigerian Communication Commission
NCA	National Crime Agency
NCI	Nigeria's Corruption Index
NDC	National Democratic Party
NGO	Non-Governmental Not for profit Organisation
NFIU	Nigerian Financial Intelligence Unit
NHS	National Health Service, UK
NNPC	Nigerian National Petroleum Corporation
NPF	Nigerian Police force
NPI	Nigeria's Corruption Index
NPP	New Patriotic Party
NJI	National Judicial Institute
OECD	Organisation for Economic Cooperation and Development
OFA	Occupational Fraud and Abuse
OFC	Offshore Financial Centres
OPEC	Organization of the Petroleum Exporting Countries
PIAC	The Public Interest and Accountability Committee

PPA	Public Procurement Authority
PWC	PriceWaterhouseCoopers
SSA	Sub Saharan Africa
TI	Transparency International
UN	United Nations
UNAMSIL	UN peacekeeping mission in Sierra Leone
UNODC	United Nations Office on Drugs and Crime
UNDP	United Nations Development Programme
UNMIL	UN Mission in Liberia
UOP	University of Portsmouth
US	United States of America
USAID	United States Agency for International Development
USCITA	United States of America's Department of Commerce International Trade Administration office
WB	World Bank
WHO	World Health Organization

CHAPTER 1

Background

Stealing of public funds in Ghana and Nigeria is not new news. The misappropriation of public funds and assets by corrupt individuals in public positions has been a major feature in the news for over 20 years. These types of crimes are not limited to high profile individuals, but includes unknown individuals working in public positions. The focus of this study is on the crimes of high-profile individual who steal while in their positions. The financial impact on the state is huge and have undermined the operational efficiency of various public organization over the past years, subsequently infringing on the development capabilities of both countries (BBC, 2014; Human Rights Watch, 2011; IMF, 2017; Transparency International, 2011, 2012, 2014, 2015; United Nations, 2012; World Bank, 2012, 2016). Essentially, Button and Gee (2013) help to drive this point further, by emphasising that this is an era of tighter budgets and more competitive markets, therefore, countering fraud incidences in public organisations will help reduce costs and increase revenue for both countries; consequently, giving them a competitive edge in a global market (2013, p.1).

Ghana and Nigeria are prominent African countries (Blanchard and Husted, 2016). As such, they are often seen as a beacon for the continent (Economist, 2016; BBC, 2014). Nigeria ranks as one of the top

ten oil producing country. Given the factors, they should be at the forefront engaging with national and international agencies to control occupational fraud.

Contrary to widespread views of being third world countries, they are among the richest countries in Africa because of their richness in natural resources; mainly crude oil which makes both lucrative environments for many multinationals like Royal Dutch Shell and BP to trade in. Yet they are plagued with many occurrences of occupational which restrict their economic development (Economist, 2016; IHS 2016; World Bank, 2016, 2015).

Theft of public funds is an important issue to understand, for countries such as Ghana and Nigeria whose underdevelopment are linked to these types of crime (GII, 2016; Global Witness 2012; Heilbrunn, 2004; HRW, 2011, Okonjo-Iweala, 2013; World Bank, 2012, 2016). The severity of the impact is visible in both economies where over 50% of their population do not have access to basic infrastructure such as electricity supply and water. The standards are evidently below adequate (Resyst, 2015, Adie et.al. 2013; Amanpour, 2013). This is partly the consequence of stolen or misused public monies that were meant for such projects to benefit the society, and have consequently led to inadequate investment in these much-needed infrastructures (The Economist, 2016; NCHDP, 2015; PHCPI, 2015). Both countries are plagued by deep income inequalities among the population, with the ruling and business classes enjoying very high standards of living (Oxfam, 2015; World Bank, 2012,

2016, 2017). The marginalised majority live in very tough conditions, high cost of living on very low or no income and with no social services system to help. These conditions, are likely to create an enabling environment for criminal activities such as fraud.

When combined, billions of foreign aid investments are ploughed into both countries; so, consistent concerns over the mismanagement of public funds can impact on both international business interest and the amounts of foreign support they receive (DANIDA, 2015; IFC, 2015; Santander, 2016).

The consequences of occupational fraud can raise the cost and risk associated with doing business if funds are stolen or misused because projects remain unfinished, contractors unpaid, and the organizations involved may end up spending on investigation and litigation processes, as well as re-recruiting (Blanchard and Husted, 2016; Gov.uk: Policy Paper, 2016; OECD 2017; World Bank, 2013, 2016, 2017). Attracting foreign direct investment is a vital part of the countries' policies and is crucial to maintaining the current economic trajectory, especially given their recent economic status; as Ghana is currently facing a £913 Billion deficit in their public purse and is currently funded by a loan from the World Bank (World Bank, 2016, 2015); while the Nigeria economy has fallen into a depression since 2016 (BBC, 2016).

Occupational Fraud has been recognized as a major problem in both countries; consequently, many agencies have been put in place to

control it. In Ghana, two main agencies were setup. CHRAJ, was established in 1993 by an Act 456 of the Parliament of Ghana as directed by Article 216 of the 1992 Ghana Constitution (Refworld, 1993). It serves as an ombudsman receiving and dealing with corruption complaints as well as complaints about how public institutions function; and to provide redress. The Economic and Organised Crime Office was also established by an act of Parliament in 2004, Act 2004, as a specialized agency to monitor and investigate economic and organized crime and on the authority of the Attorney-General, prosecute these offences to recover the proceeds of crime and provide for related matters. Similarly, in Nigeria, three distinct agencies were created to control occupational fraud. The Corrupt Practices and Other Related Offences Act of 2000 established an Independent Corrupt Practices and Other Related Offences Commission (ICPC) to prosecute individuals, government officials, and businesses accused of corruption. The Economic and Financial Crime Commission (EFCC) was also created in 2004 and made responsible for investigating, arresting and charging any offenders with corrupt practices either economic or financial crimes. In addition, Nigerian Financial Intelligence Unit (NFIU) in fulfilment of the requirement by FATF, was established in June 2004 as the law enforcement arm of the EFCC. Its central roles are to receive analysis of financial intelligence and to disseminate intelligence to nominated users.

The agencies believe they are making unprecedented impact, and have reasons to celebrate (EFCC, 2016a, 2015e; ICPC 2015; CHRAJ, 2013).

But this celebration as Agabi (2015e, p.11) from the EFCC asserts, is an expression of the agency's determination not to give up. Conversely, the view of progress has been refuted for many years (Worldbank, 2016, 2015; Crowther et al., 2015; Forson et al., 2015; Okogbule, Sowunmi et al., 2010; 2006, Shehu, 2005). The general perception of a "rising occupational fraud rate" is growing, giving ascent to the impression that both the counter fraud agencies and the government in both countries are doing very little to control the problem.

It is evident, however, that the fraud fighting agencies have increased their efforts and partnerships nationally and internationally over the past years since their inception (EFCC, 2016a; EOCO, 2016; CHRAJ, 2016). Several international donors such as Christian Aid, the National Crime Agency in the UK (NCA; who were previously called Serious Organised Crime Agency, SOCA), United Nations Development Programme (UNDP), United States Agency for International Development (USAID), and many others have not only given financial assistance but offered advisory and training support over the past years. They all pay a part in strengthening both nations.

The global outlook on fraud in Ghana and Nigeria remain persistently dire and pessimistic (IHS, 2016). Reports from various studies highlight the inefficiency of strategies used to counteract occupational fraud (Omotoye 2012; Otusanya 2011, 2012; Nwankwo and Aneh, 2008; Okonjo-Iweala, 2013), significant issues surrounding the impact of the counter-fraud agency's roles and the impact of corruption while trying to

execute these roles (Sowunmi, 2010; Ejibunu (2007). Others query issues of accountability (Omotoye, 2011) and the constraints that the agencies face.

Reputable, independent international organisations such as the United Nations (UN) World Bank and Transparency International (TI), use various analysis processes and indices to capture and describe the prevalence of these crimes. Although their focus is mainly on corruption, their analysis drive global perceptions and serves as an important pointer for this research. The results from their explorations depict Ghana to be in a better position than Nigeria. But it may be argued that this is down to the size of the country making it easier to manage an effective framework; or that the size of the crime is relative to its population.

Despite international pressure; despite a host of agencies established, and despite the acknowledgement of fraud as a major problem by the government; the view that high profile and high value fraud is practically impossible to tackle remains widespread. This begs the question as to precisely how effective the fraud investigation and prosecution processes are in both countries. With a better appreciation of when and how fraud cases fail, the system is in an enhanced position to remedy specific failures within it rather than be reduced to 'grand statements' about the inevitability of major fraud.

Born of dual heritage, my interest in this academic study stems from a personal perspective of nostalgic childhood experiences and

observations growing up in Nigeria during significant periods when Ghana and Nigeria were economically stable; and shared very deep connections, conflicts and rivalry (Tounkara, 2016; Olaosebikan, 2014, 1983). Quite unaware of the dynamics in the background, I remember the new experiences it brought. This era created a great blend in culture; consequently, both countries share some common languages i.e. Hausa and 'pidgin English'. Pidgin English, was a shortened or diluted version of English. Though viewed as an inexpressive and non-progressive language (Campbell et.al. 1994), It allowed people who had no common language to communicate with each other (Crystal, 1997; Bakker, 1994). But the educated Ghanaians had no need for the use of this form of communication. The impact of the migration was far reaching to the point of fashion influence; as the Ghanaian women were skilled at tailoring.

I hold on to that place I once inhabited, but my memories are incessantly smudged by the reputations it has gathered over the years. How do I present the country positively to my children and their children? Who and what is stopping the progress in these countries? How can I contribute to that progress? These are questions I ask myself. Occupational fraud by high profile individuals are the forerunners of hindrances to the country's development.

My contribution therefore is to develop a greater understanding of the types of occupational fraud that occur, the circumstances within which these crimes take place and understand better the process by which they are dealt with in both countries, starting with this research study.

I made two trips to both countries over the course of this study to gather case information and observe the terrain.

Research aims and objectives

The aim of this research project is to establish a profile of those found to be involved in occupational fraud in the two countries; to examine the legal structures for enforcement i.e. the practice of, and barriers to, prosecution of large scale occupational fraud of those in senior public positions in Ghana and Nigeria. Also the research sought to examine the influence of culture and the powers of the elite on the prosecution processes in both countries.

These aims will be addressed with reference to four main research questions:

- (a) What are the common characteristics of those who are prosecuted in both countries?
- (b) Are the prosecutions effectively managed in Ghana and Nigeria?
- (c) What are the barriers if any of effective prosecution in Ghana and Nigeria?
- (d) How do Ghana and Nigeria compare, based on the occurrences in both countries?

Outline of chapters

Chapter one has provided the background for this study of occupational fraud in Ghana and Nigeria and outlined the aim of this study. The rest of this thesis is laid out as follows.

Firstly, the literature review in chapter two evaluates the theoretical framework on which this thesis is grounded and its contribution. Chapter three, gives an overview of Ghana and Nigeria. The chapter discusses the backdrop within which the counter fraud agencies operate in both countries; this inherently helps to give a broader understanding of some of the cultural background pressures that exist in both economies. The broad discussion of these factors illuminates the picture of how fraud and corruption are easily embedded in the culture, and how they continue to serve as triggers and drivers of Occupational Fraud. The focus of this discussion is to highlight the history and development of fraud committed by high profile in both countries in order to contextualize Occupational Fraud activities. Consequently, the social and cultural milieu within which the agencies operate are illustrated.

Chapter four examines some international collaborations and donors in both countries; illustrating the scope of their support. The current efforts put in place by the counter fraud agencies to combat Occupational Fraud in Ghana and Nigeria are also evaluated; by examining the success of their operations, their operating context and their strategies.

Chapter five, describes the empirical research methodology used and argues the case for a mixed methods approach. The research explored and compared high profile occupational fraud cases in Ghana and

Nigeria, to understand their nature and characteristics; also, the demographics of the perpetrators. 50 cases in total were examined. The cases involved high profile individuals. A programme of semi-structured interviews with representative from 15 organisations drawn from six categories: Counter fraud agencies, prosecution and defence, media reporters (crime analysts), NGOs and Academics. The interviews were carried out to gain a broader insight into the cases and to glean vital points from the experiences of the people directly involved with the cases; and who interact frequently within this system. Chapter five concludes with how the research was complied with the relevant ethical guidelines and the limitations of the study.

After a critical review of past cases, interviews with stakeholders and media extracts, the findings of this research are critically discussed in chapters six & seven in the context of each country and highlights connections with the literature. These chapters also highlights the way fraud cases are prosecuted and concludes that challenges faced by the counter fraud agencies can be partially ascribed to the social, cultural and political contexts.

Chapter 8 looks at the comparative perspective of the cases that have been analysed for this study. Then the similarities and differences in both countries are discussed.

Chapter 9 summarises the research findings and concludes with suggestions for significant changes to the way high profile criminals are currently prosecuted; focusing on the legislative framework, skills in the counter fraud agencies and forfeitures.

CHAPTER 2

Literature Review

Theoretical Framework

Introduction

This chapter seeks to conceptualize 'Occupational Fraud'. It begins with capturing existing fraud scholarships around Occupational Fraud, demographics of perpetrators, impact of Occupational Fraud and the barriers to effective prosecutions. It then conceptualizes Occupational Fraud within the context of both countries.

Fraud is generally defined as

"A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Consequently, fraud includes any intentional or deliberate act to deprive another of property or money by guile, deception, or other unfair means "(Black's Law Dictionary).

In the broadest sense, fraud can encompass any crime for gain that uses deception as its principal modus operandus (Wells, 2011, p.2). Fraud can be committed either internally by employees, managers, officers, or owners of the company, or externally by customers, vendors, and other parties. It also encompasses other schemes to defraud individuals, rather than organizations.

Empirical scholarships on Occupational Fraud have been based around Sutherland's (1883 – 1950) foundation of thoughts for many years. Sutherland, was particularly interested in fraud committed by the upper-class business executive, either against shareholders or the public. Sutherland (1949) defined White-collar crimes "as a crime committed by a person of respectability and high social status during his occupation" His definition created two elements to the way White-collar crimes is viewed; the offender element which stated that the offender had to be of high status and the crime element which indicated that the illegal activity of the high-status individual had to be occupationally based. Sutherland's main aim was to draw attention to a crime that was not captured within the general scope of criminology such as murder, intoxication, adultery, burglary or robbery. The definition emphasized the characteristics of individuals (e.g. their high status and respectability) as key components in White-collar crime. His study focused on sanctions imposed against the seventy largest U.S organisations.

Sutherland's (1949) definition broke new grounds but has since been challenged for its ambiguity. Mannheim (1949) stated that Sutherland's (1949) definition underestimated the influence of poverty on other forms of crime. Edelhertz (1983) argued that by focusing on the offender's status and the location where the crime takes place i.e. their workplace, rather than the offence itself, then the concept did not accurately reflect the behaviours that needed to be highlighted. The ambiguity of Sutherland's definition was further highlighted in a study carried out by Weisburd and Waring (1990). Their study of White-collar offenders

convicted in seven federal districts between 1976 and 1978, found that most offences described as white-collar were committed by those who fall in the middle class of society. Sutherland's methodology has also been criticised, where he defined White-collar crime studies as behaviours committed by members of the upper class, but his research focused on all sorts of offences including workplace theft, fraud by mechanics; deception by shoe sales persons; and crimes by corporations. Tappan (1947) criticised the legal ambiguity of Sutherland's scholarship and stressed that the concept was too sociological at the expense of legal definitions of White-collar criminals and need to be narrowly defined so it includes those behaviours that are criminally illegal. This ambiguity has led to unclear definitions of White-collar crimes where Edelhertz (1983) argues, also makes it difficult for policy makers and specialists to use criminological information to guide policy development and criminal justice practices because more evidence based research on certain practices was needed for certain types of crimes. However, Sutherland, counteracted all these arguments and confirmed that his point was not for precision but to note how White-collar crimes is identical in its general characteristics with other crime rather than different from it (Sutherland, 1940).

Subsequent attempts to redefine this concept into subtypes led Weisburd and Waring (2001) to define White-collar crimes as economic offences that are achieved through "some combination of fraud, deception or collusion". Their study focused on middle-status individuals; two thirds of the offenders covered in their study did not own or were not

an officer in a business. Three fourths lacked a college degree; more than three fifths had more economic liabilities than assets; and about 45% were not employed steadily. Further, for these who were arrested for more than one offence, 15.1% committed only White-collar crimes. Weisburd and Waring (2001) consequently drew the following conclusions that:

Many White-collar crimes do not require established occupational position or elite social status for their commission. The skills needed for many of these crimes are minimal. Lending and credit card institution fraud may be committed by anyone who completes (or fails to complete) an internal Revenue Service Form. Mail fraud sometimes require little more than a phone or postage stamps.

Wolfe and Hermerson's (2004) used their fraud diamond theory to demonstrate how an individual's capability, personality traits and abilities can play a major role in determining whether fraud may occur. While opportunities can open the doorways to fraud, incentive and rationalization will attract people to it. Consequently, an individual with underlying traits will have the capability to recognize and take advantage of an open doorway situation (a loophole, gap in the system). The occupational crime literature concentrates often on individuals such as CEOs as criminals. Many Occupational Fraud studies relied on official records of individual convicted in federal courts, resulting in inferences that may not represent the larger population of White-collar offenders (Daly, 1989; Weisburd, et al, 1990, 1995). Another limitation of occupational fraud studies was the use of observations restricted to a single time period, judicial district and organisation. Consequently,

differences in individual characters, types of fraud are not captured across districts or organisations.

These early studies on White-collar crime have not captured the specific behaviours of individuals in prominent government positions, however it is useful for the focus of this study to glean from some of the underlying messages embedded in their definitions of Occupational Fraud. Messages such as, that the ability to commit these types of fraud stems beyond an individual's character, personality traits and consequently may not require an established occupational position or an elite social status for the crime to be committed.

“...Bribery, theft and embezzlement arose from a reversion to a traditional winner-takes-all attitude in which power and family relationships prevailed over the rule of law” (Victor T. Le Vine, 1975).

Others have gone beyond the crime and looked at individual characteristics demonstrating that most White-collar crimes might be better characterized as committed by Middle-class individuals, who are mainly white with an average age of forty (Weisburd et al., 1991; Wheeler, Weisburd, Waring, and Bode, 1998); and that lower-status jobs increased the likelihood of participation in criminal activity (Loeber & Dishon, 1983; Krohn & Jang, 1991). Benson & Moore, 1992 maintained that White-collar offenders have high-level education

This study explores empirical research on Occupational Fraud and seeks to extend the 'Elite Theory'. It uses one of Hofstede's 6D Model

theory on 'power distance' to explain the influence of culture and values on Occupational Fraud cases, the perpetrators involved and how the agencies prosecute their crimes.

The Elite Theory

The 'Elite Theory' attempts to return to some of the original ideas of White-collar crime. Scholarships on *the elites*, describe how a small minority of people can control the majority (Gaetano Mosca, 1858 - 1941; Vilfredo Pareto, 1848 - 1923; Robert Michels, 1876 - 1936; and Max Weber, 1864 - 1920). These small minority are said to consist of members of the 'upper class' in an economy who link with policy-planning networks, who hold the most power. This power is said to be independent of a state's democratic process. Members of these groups exert substantial power over economic decisions made in public institutions through their positions in certain organisations or on corporate boards. They may also have influence over the policy-planning networks through financial support of foundations or through positions with think tanks or policy-discussion groups.

Weber held that political action is always determined by "the principle of small numbers and the manipulation of these small leading groups.

Elites are also seen as those who are most proficient at using the two modes of political tenet, force and persuasion, and who usually enjoy important advantages such as inherited wealth and family connections (Pareto, 1848 - 1923).

More recent scholars such as Simon (1999), used this concept to explain the acts committed by “upper class” individuals as exploits for personal economic or political gains. These acts may be violation of the law, or they might be considered deviant by generally accepted moral standards. Because of their power and influence, individuals committing such acts often can conceal their harmful behaviour with little risk of being punished. Shapiro (1990) emphasise was on the nature of the criminal act and not on the perpetrator, stressed on a widely-held contention that White - collar criminals are handled differently to other offenders because of their higher social standing.

The Influence of Culture; Power distance

Hofstede’s 6D Model was developed from a comprehensive study which examined the influence of culture on values. The model has 6 dimensions which includes *power distance, individualism versus collectivism, masculinity versus femininity, uncertainty avoidance, long-term orientation versus short term, and indulgence versus restraint*. The ‘*Power distance*’ dimension have not been exploited enough in any study to explain the occurrences of Occupational Fraud cases and how they are prosecuted in Ghana and Nigeria. This aspect of this theory is in effect, also key to understanding the culture, attitudes, beliefs and behaviours in both countries that facilitate the behaviours of the Elite.

The term *power distance* is derived from the works of Mulder (1977), who defines power as “*the potential to determine or direct (to a certain*

extent the behaviour of another person or person, more so than the other way round". Power distance is a measure of the power or influences between and elite individual and a subordinate (a less powerful); and the distance as *"the degree of inequality in power between less powerful individuals and the more powerful in which both belong to the same social system"*. He proved about 20 hypotheses, of which the most relevant to this study are the following:

1. The mere exercise of power will give satisfaction.
2. The more powerful individual will strive to maintain or to increase the power distance to the less powerful person.
3. The greater the distance from the less powerful person, the stronger the striving to increase it.
4. Individuals will strive to reduce the power distance between themselves and more powerful persons.
5. The smaller the distance from the more powerful person, the stronger the tendency to reduce it.

In applying Hofstede (2001) theories to highly stratified societies like Ghana and Nigeria where powers are concentrated in the hands of the elite, subordinates learn that it can be dangerous to question a decision of individuals with powerful support networks. In this type of situation, people learn to behave submissively. There are centralised decision structures; with concentration of authority in the hands of a few. There can be very little defence against power abuse by the powerful.

Occupational fraud collar crimes have been noted to have a fluid and dynamic sense such that the normal frameworks of criminology cannot always be used in its entirety to explain all situations (Nelken, 1997:901).

Where countries in Africa are concerned, the terms corruption, embezzlement and Occupational Fraud are often used interchangeably when describing instances of Occupational Fraud; consequently this is the case in Ghana and Nigerian. The World Bank's definition refers to the abuse of public office for private gain. The Danish International Development Agency, a donor of one of Ghana's counter fraud agencies defines it occupational fraud as the "misuse of entrusted power for private gain". Their definition goes further to state that it might or might not involve the taking of bribes. Evidently, the critical ingredients in the definition would seem to be public office, entrusted power, and the abuse of that position for private gain.

Conceptualizing Occupational Fraud in Ghana

A well-administered country by regional standards, Ghana is often seen as a model for political and economic reform in Africa. Compared to Nigeria it can be viewed as one of the more stable nations in West Africa, with a good record of power changing hands peacefully (BBC, 2016).

Ghana has been cited to have a very a strong legal anti-corruption framework in place, but still faces implementation challenges in practice.

Global Integrity 2009's scorecard, reflects this implementation gap by scoring the country highly on the quality of its anti-corruption law but very poorly on law enforcement (GII, 2016). The Ghanaian criminal code criminalises active and passive bribery, extortion, the wilful exploitation of public office and the use of public office for private gain, irrespective of the nationality of the bribe payer/taker. Direct and indirect corruption is illegal, as well as attempting, preparing or conspiring. Though evidence show that Ghana has specific attributes such as petty and bureaucratic administration as well as patronage networks; descriptions used more in the literature for Ghana.

The literature characterizes Ghanaian's political framework as one deeply entrenched in a patronage and '*clientelistic*' culture for relations to flow (Freedom House, 2010).

Lindberg's (2003) survey of Ghanaian MPs showed that MPs are involved in *patron-client* relationships to a significant degree to sustain their political power. Lindberg's study further suggests that the prevalence of patronage politics among MPs in Ghana has persisted and even increased through the country's democratisation process. Lindberg (2013) confirmed practices of patronage which included favours such as paying individuals' school fees, electricity and water bills, funeral and wedding expenses; distributing cutlasses and other tools for agriculture, finding someone a job or a place to stay, contracts, or other services; or even handing out '*chopmoney*' (money for daily sustenance) or small cash sums to constituents. It might also entail personal assistance in

dealing with the authorities, whether police, courts, headmasters, local government officials or ministries.

The impact of occupational fraud on Ghana:

Since Ghana became a member in 1958, IFC has invested \$2.5 billion in 75 projects in Ghana, with \$2.1 billion for its own account and more than \$400 million mobilized from other investors. IFC's outstanding portfolio of investments in Ghana was \$359 million at June 30, 2015 (IFC, 2015, Santandertrade, 2016). The increasing appetite for investments into emerging markets, combined with the persistence of political risks, suggests a sustained need to understand the current outlook for the maintenance of the public budgets. Foreign investors invest in the country and employ indigenous people to carry out the work; so, there must be an underlying element of trust in the system.

There has been an increase in the level of corporate fraud, bribery and corruption reported in Ghana in the past decade. Previously, such incidents may have existed but the investigation and prosecution processes may not have been publicly announced or featured in the media. In recent times, such cases are in the public spotlight perhaps because of greater awareness and pressure for accountability. Increased media involvement in raising awareness and increased level of activities of all the anti-corruption agencies as well as the NGOs may also have contributed to this surge. However, the past president, Mahama (BBC, 2016) argued that the perception of the prevalence of Occupational Fraud have been accentuated due to the freedom of press,

so Ghana cannot be judged solely by this. Nana Addo, the current President have reiterated Mahama's stance by proclaiming that the level of prevalence reported as a propaganda, because majority of the Ghanaian citizens uphold democratic accountability; so consequently, they would not stand for such behaviours in public office to grow considerably (Nana Addo, 2017).

In Ghana, a study carried out by the Ghana Integrity Initiative (GII) focused on how fraud and corruption have led to poor service delivery; particularly its adverse effects on education, maternal mortality and access to water which are all Millennium Development Goals (MDGs). The discovery of abundant natural resources as well as oil stand as a great asset for the country, but it has led to conflict in Ghana for several reasons. This conflict is attributed to the fact that regimes have failed to manage revenues generated from natural resources in a transparent and accountable manner. This has driven the perception of resources such as oil to be viewed as "a curse" in Ghana (Siakwah, 2017, 2016; Ackah-Baidoo, 2016; Gyampo 2016; Manteaw 2010). "The curse" view point suggests that countries such as Ghana, rich in oil and gas resources are likelier to be cursed than blessed, because several factors account for the diversion of the wealth to other needs; often non-developmental needs and privately shared schemes.

Some empirical studies have used various theories to explain how the *Elite* have been responsible for Ghana's mismanaged resources over the past years. Auty (1993), Soros (2007), Gilberthorpe and Hilson (2014) all highlight how the exploitation of natural resource wealth does

not essentially translate into any benefits for the indigenes in Ghana, due to the mismanagement of resource revenues; distortion of the overall economy through currency rate fluctuations; and power. Understanding the local context in Ghana however, is critical to a full appreciation of the challenges faced in the Ghanaian society. This will be explored further in the next chapter.

Siakwah's (2017, 2016) research explains the wide reaching economic impact of some minority groups 'elites' and centres around *Actor Network Theory*; based on networks, enrolment and association. Siakwah (2017, 2016) argues that the challenging impacts of oil are created by a 'globalised assemblage'; which are interactions between and among Ghanaian state institutions and local politics, external global political economy; and transnational companies and technologies. However, the causal factors asserted, extended further to existing political, economic challenges and Ghana's political economy which also helps to condition the problematic impacts of oil. Siakwah (2017) used data from interviews, descriptive statistics and document analysis to analyse the impact of oil on economic growth, currency movement, debt and governance in Ghana. Conversely, Ackah-Baidoo (2016), drew on dependency theory to reveal the impact of oil on Ghana. The study critically explored the youth unemployment crisis in Ghana and asserted that although the country has experienced continuous and a seemingly boundless flow of investment in all its extractive industries in recent decades, this growth has not directly translated into significant poverty reduction. This, in essence has contributed a negative impact on

socioeconomic development overall, where very few jobs have been generated due to its overdependence on natural resources economically.

Ghanaians are becoming increasingly concerned about what they describe as wasteful and fraudulent spending of revenues from their natural resources particularly, oil (Nketsia, 2014; PIAC, 2016). This is driving the demand for a better and transparent management of natural resource wealth that will benefit both present and future generations and avoid the “resource curse” suffered by other neighbouring oil countries such as Nigeria (Moss & Young, 2009; Segal, 2009; Shaxson, 2008). Ghanaians have campaigned continuously for public disclosure of contracts and licenses awarded particularly to companies for oil and gas operations as a major way of enhancing transparency in the system.

There are several International Transparency and accountability initiatives (TAIs) in Ghana, that also act as catalysts for performance improvement in the mining and metal industry (Acosta 2013; Collier and Hoeffler, 2004), including the Kimberley Process Certification Scheme (KPCS), the Publish What You Pay (PWYP) coalition, and the International Council on Mining and Metals (ICMM). In Ghana, the Extractive Industry Transparency Initiative (EITI) regulates the country’s gold mining. Islam (2003) emphasises how TAIs have several benefits in Ghana, such as making corruption less likely and less attractive. TAIs also make it harder to use incentives to make public officials act ethically; cooperation for corruption is more difficult to sustain and opportunistic

rent-seeking is less likely (Kolstad and Wiig 2009; Bellver and Kaufman 2005).

The government's efforts in Ghana to curb occupational fraud committed by high profile individuals:

Corruption and Fraud allegations have added to Government's woes where *financial irregularities and favouritism in the awarding of government contracts* are a part of Ghanaian politics, and the most recent scandals are unlikely to have a significant negative effect on the country's already poor image. However, the scandals provide plenty scope for criticism from those in the opposition party. It often creates a diversion from implementing the policies required to solve existing economic issues. The present government also had various accusations of irregularities of the state managed schemes such as the Ghana Youth and Entrepreneurship Development Agency (GYEEDA).

Over the past five years, the government have asked for various corporate governance review and forensic review of several Ministries. In one instance, the Ministry of Finance in relation to the Ghana National Petroleum Corporation, asked the Auditor-General to bring in the SFO who in turn hired PwC to review its finances. There are still growing perceptions in Ghana that government-related corruption is on the rise (GII, 2016, Adjaho, 2015) but the government refute the idea that fraud in public offices are presently endemic in the system in Ghana (BBC,

2016b). However, platforms for reforms continues to exist in what could lead to being described as a country on a positive development turn.

A critique of the government's efforts in fighting occupational fraud in Ghana:

As Africans, we have crippled ourselves with our over-dependence on foreign help. We can only break the cycles of limitation when we reject the attitude of dependency! (Mensa Otabil2016,).

In 2013, nongovernmental organizations (NGOs), the media, and opposition parties have criticized the government in power (the NDC administration) for its inability to reduce corruption and prosecute government officials suspected of misconducts. John Kufuor of *the NPP's reign promised a "zero-tolerance" policy on corruption, but his administration made less progress than anticipated.* Critics often alleged that investigations were overly politicized, and corruption within the NPP government was extensive (Amidu, 2017; BTI, 2016; Ndoum, 2016; OCCUPYGHANA, 2016).

The Government of Ghana has taken steps to amend several laws on public financial administration and public procurement. The public procurement law sought to improve accountability, value for money, transparency and efficiency in the use of public resources. Despite the laws, companies still cannot expect complete transparency in all locally funded contracts. There continue to be allegations of *corruption in the tender process and the government* has in the past set aside

international tender awards in the name of national interest. Businesses report being asked for "favours" from contacts in Ghana, in return for facilitating business transactions (Pelizzo et.al. 2016; PRSGroup, 2013; Sylla, 2013; Freedom House, 2010). The Government of Ghana has publicly committed to ensuring that government officials do not use their positions to enrich themselves.

The public's faith in the government however continue to be tainted, since the government failed to pass the Rights to Information (RTI) Bill which started in response to public pressure to promote transparency and curb corruption. The government, in conjunction with civil society representatives, had drafted a Freedom of Information Bill, which would have allowed greater access to public information. The Rights to Information bill was drafted in 1999 and started the process through parliament since February 2010, and got to second reading in June 2015 when it was subsequently referred forward to the consideration stage. It has since been stalled. Many believed this was a deliberate attempt by the government (Abdulahi, 2016; Loh, 2016, Ukaigwe, 2017) due to some high level public officials' fear of being exposed or publically scrutinised of their affairs. If the bill was passed, the public would have the legal right to have access to information such as government records, files, registers, maps, data, drawings, reports, and many other information which are deemed as public affairs.

This perception is confirmed by claims from a member of parliament that the bill had been delayed due to some technicalities, ambiguities, knotty

clauses, some apprehensions and disagreements associated with some of its provisions:

“Let me say it here and now, that some members of parliament feel they would be exposed to ridicule and scrutiny if the bill is passed into law in its current state... My colleagues have intentionally refused to pass it, by dragging their feet to stall this important bill. Even some chiefs, heads of corporations, ministries of state and others call me daily, and tell me to sit on the bill in order to protect them against public ridicule and prosecution” (Hon George Loh, 2016).

Even though the frequency of occupational fraud in Ghana is relatively low when compared to Nigeria and other countries in Africa, businesses frequently still quote this fraud problem as an obstacle for doing business in the country (IFC, 2015; Santander, 2016; TI, 2015). The government’s response to donor pressure to address fraud is often perceived as the driving force behind all its actions. The media suggests that the Mahama’s government, which came to power in part on an anti-corruption platform and subsequently promised a series of reforms, however this had not been implemented at the point when this research was carried. Reforms promised includes procurement legislation, freedom of information and whistleblowing legislation, could not be persuaded not to interfere in anticorruption work.

Fraud remains a major problem in Ghana, however, it remains low in comparison to other African countries (ES 2013). In Ghana, this affects all sectors in the economy and is often linked to public procurement. TI’s report (TI, 2016), found that the sectors where Ghanaians perceived the

highest levels of fraud were the police, political parties, and the judiciary. Low-level government employees are known to ask for a '*dash*' (tip) in return for facilitating license and permit applications.

Public corruption in Ghana facilitates Occupational Fraud activities and is a major source of money laundering, which occur mainly through public procurements and the awarding of licenses. However, Ghana's ranking on the Transparency International Global Corruption Perceptions Index has improved slightly since 2010 (TI, 2015, 2016).

Conceptualizing Occupational Fraud in Nigeria

A deep dive into the literature reveals several descriptions of the characteristics of both countries. For Nigeria, words like '*Godfatherism*', '*Patronclientelism*', '*clientelism*', '*Patrimonialism*', '*neo-patrimonial*', '*prebendalism*', '*nepotistic*', '*legis-looters*', '*execu-theives*' are used to define or describe how the country functions. All these descriptions are interlinked as they help retain and control power in the hands of a few people.

Some in the literature that have alluded to the '*godfather*' culture, describe it as a form of protection and support sought by individuals while they try to reach a certain level in the society where they can benefit socially and materially without being affected by the legal framework. '*Godfatherism*' manifests itself in occupational fraud, where high-profile individuals who commit these types of crimes are protected or well-connected in the society to very powerful private individuals

(Albert, 2005, Onwuzuruigbo, 2013). Consequently, the counter fraud agencies are then reluctant to trample over such individual's toes as that may have consequences for their jobs or budgets; where some of these individuals either sit in the House of Senate (where the budgets are approved) or have links there. Albert (2005) cites the plight of one Governor Chimaroke Nnamani of Enugu, who had a running battle with his godfather, Senator Jim Nwobo, for over two years. The governor defined godfather from his own personal experience as follows:

"...an impervious guardian figure who provided the lifeline and direction to the godson, perceived to live a life of total submission, subservience and protection of the oracular personality located in the large, material frame of opulence, affluence and decisiveness, that is, if not ruthless... strictly, the godfather is simply a self-seeking individual out there to use the government for his own purposes" (Nwanmani, 2003).

The Nigerian society is often classified as a *neo-patrimonial* or a *prebendalism state* (Lewis 1994; Beekers & Bas van Gool, Smith 2001 and 2007), where power is preserved through the granting of personal favours and where politicians abuse their positions to extract as much as possible from the state.

Weber's (1978) concept of Patrimonialism is used by Ukana (2009) to describe Nigeria as a system of government where those in power secure the loyalty and support of clients by granting benefits from theirs and the state resources. The rulers dispense offices and other benefits to subordinates in return for loyalty, support and services. Although there is a distinction between the public and private spheres, but in practice the real decision-making happens outside the formal institutions

(Erdmann & Engel 2007). In Nigeria, Kano is often seen as the power region where agreements for tough country decisions are reached when certain prominent traditional or religious heads meet. These groups may include the Emirs. Consequently, many perpetrators are linked to powerful 'ruling houses' and as such cannot be properly reprimanded with the law as this may cause other issues like disunity.

'*Patronclientelism*' or '*clientelism*' is another characteristic ascribed to Nigeria. It is said to flourish in a neo-patrimonial state, where decisions about policies and resources are made by powerful politicians and their cronies who are linked by informal, personal and *clientelist* networks that co-exist with the formal state structure (Nawaz 2008).

Erdmann & Engel (2007) highlighted '*presidentialism*' in Nigeria, which is the systematic concentration of power in the hands of one individual; also, the use of state resources for political legitimation; a culture of "rent-seeking" linked to the private appropriation of resources by a group; and a systematic *clientelism*, where power is maintained through the awarding of personal favours, such as public jobs, contracts and licenses, among others. Smith (2007) argues that *patronclientelism* is the basis of the Nigeria's political economy and society and is manifested in different circumstances. For example, rather than steering through the country's government social system and expecting the state to provide services, in a patronclient society such as Nigeria, citizens are more likely to look for support from a personal connection. This is typically someone of the same ethnicity or from the same community. Consequently, individuals are likely to support political leaders from their

own communities or ethnic groups, in the hope that they will benefit from greater opportunities if those politicians get into power (Willott, 2009).

In analysing the impact of fraud on Nigeria, several empirical researchers have looked particularly at the *relationship between colonisation and corruption as well as the manifestations of corruption during the authoritarian and the democratic regimes* (first to fourth republics). Other studies have focused their analysis on the risks, causes and consequences of occupational fraud in various sectors, as well as the measures taken within those sectors so far to curb fraud and manage the public funds better. A good place to start will be to analyse the impact of occupational fraud on the economy.

President Buhari, the current Nigerian president has admitted that Occupational Fraud committed by high ranking government officials has a massive impact on state revenues in Nigeria over the years, consequently leading it to sink into depression from the start of 2016 (Economist, 2016). Buhari estimated government officials had stolen over \$150bn in the previous decade (BBC, 2016).

Several studies and media reports, have highlighted cases where *public budgets that were meant for various economic development had been mismanaged by the public officials* put in positions to administer them; consequently, putting lives at risk (Buhari, 2016, 2012; BBC, 2009, 2014, 2016; Worldbank, 2015). Omotoye (2011) confirmed these *mismanagement in public sector budgets*, where there are differences in

the amount approved for a contract and the value of the contract if executed. The study highlighted persistent widespread corruption and waste, despite due process. He recommended the need for more accountability and transparency. This extremely poor economic growth and development has been partly credited to a poor inflow of foreign investment, poor infrastructural base (Nyadike, 2012). Corruption is a leading factor which pose as a hindrance to the inflow foreign trade and national economic development. Corruption, a condition that encourages fraud is also seen as the main impediment to the various strategic reforms introduced in the country over the past years. Fraud, consequently, have lowered the quality of public services and infrastructure, affects government spending decisions, and decreases tax and customs revenues and damaged confidence in the rule of law over the years (US Department of State, 2004; AAPPG, 2006).

Fraud has been cited as a critical obstacle for social development in several African countries because of the devastating effect the deprivation of funds has had on them (WorldBank 2016; Ajagun 2012; Mbaku 2007; Obayelu 2007). Fraud also obstructs global development, harms the poor and impedes business growth and investment, because a large proportion of the proceeds are banked overseas to hide the funds (US Department of State, 2004; AAPPG, 2006; The World Bank, 2006; Annual Integrity Report, 2005 - 2006).

Aluko (2002) emphasised the effect of corruption on the society that has led to fraud in the past years:

“The most single canker worm that has eaten into the fabric of our society today is the problem of corruption. And this has so pervaded the nation that most Nigerians are corrupt in one way or the other. Nigeria is presently in a state of disequilibrium as activities in the various social institutions (as well as banking and financial sectors) have become rather unethical and synonymous with decadence” (Aluko, 2002, p. 393).

Agbibo (2011), having examined the historical trajectory of corruption in Nigeria as the underlying causes of fraud, as well as its cumulative impact on national development in the country, the study concluded that a link existed between the underdevelopment of Nigeria. Fraud was also cited as responsible for the shortcomings and poor performance of the Nigerian political economy. Public and private sector initiatives also seen to have had an impact on the stem the tide of fraud and corruption; linked to some of the factors which have enhanced or impacted on the ongoing anticorruption crusades in Nigeria.

The Oil sector has also raised cause for concern. Drawing on a World Bank report to assess the effects of *Occupational Fraud in the Oil Sector and the challenges it presents*, Afiekhena (2005) estimates that, “about 80 per cent of Nigeria’s oil and natural gas revenues benefits only one per cent of the country’s population. The other 99 per cent of the population receive the remaining 20 percent of the oil and gas revenues, leaving Nigeria with the lowest per capita oil export earning put at \$212 per person in 2004.” Even more disturbing is that most of the wealth that attributed to the one per cent other Nigerians (the elites) who have “stolen”, ends up outside the country. Afiekhena (2005) notes, “Nigeria had an estimated \$107billion of its private wealth held abroad.” As a result, not only are most Nigerians excluded from the profits of the oil wealth, most of the wealth has been invested outside the country; this in

turn has been a contributing factor to most Nigerians living below the poverty line. Many views confirm this and argue that oil is more of a curse than a blessing in Nigeria (ASS, 2015; BBC, 2009b; Obi, 2010a, b; Gyampo, *The Economist*, 2005). The cursed view is informed by the fact that oil wealth has tended to be impaired by corruption (Ejibunu, 2007) and giving very little opportunity the wealth generated to trickle down; with millions falling into the pockets of public officials, who use it for their private benefit. Thereby weakening the country's development and far too often leaving many destitute.

Before the major Madueke scandal, the Nigerian National Petroleum Corporation (NNPC) has always been viewed as one of the most corrupt institutions in the country. It has been accused many times of selling oil below the market price; where firms such as Vitol and Trafigura Commodity Trading Firms are granted several exclusive and non-transparent partnerships which gives them over 36 per cent of the market share. KPMG and PricewaterhouseCoopers audit exercise confirmed that at least \$18.5 billion was indeed missing (Sanusi, 2015). Madueke was later investigated on charges of fraud as she tried to buy a house in cash in the UK (*Premium Times*, 2016). The Auditor General also reported the alleged missing oil revenue, however no action was taken by either the ICPC or the EFCC until the change in administration in May 2015 and the inauguration of President Buhari, the EFCC arrested several former governors, aides of former President Jonathan and wives of senior politicians for corruption charges. Monitoring the problems highlighted in this sector in Nigeria however, is hopeful, as it is

a participant in the Extractive Industry Transparency Initiative (EITI), which seeks to ensure audits of Nigeria's oil accounts.

Types of occupational fraud in Nigeria:

Many high-profile frauds are known to have occurred with the help of bank staff to gain access to the money (Kanu and Okorafor, 2013; Idolor, 2010). This has driven the focus on banks of many empirical research in Nigeria. Idolor (2010) carried out a study in one of Nigeria's largest district (Benin) on the common types of bank fraud that were frequently carried out, the underlying causes, level of staff involvement, consequences and possible means of improving the problem. Eleven fraud types were presented in the questionnaire as the types of fraud currently prevalent in the banking industry. Among the types of fraud listed, computer fraud had the highest response values; making it the highest perceived type of fraud currently affecting banks. The results showed that all the other types of fraud listed also had significant response values qualifying them, except for unofficial borrowing and foreign exchange misconduct, which posited negative values. These would seem to suggest that bank employees did not view unofficial borrowing and foreign exchange misconduct as types of fraud since the practice is common and widespread in the industry. For instance, unofficial borrowing was perceived as a form of informal borrowing that is resorted to in times of dire need when the employee may not be able to meet the financial obligations in their private lives. Also, the fact that they pay later or issue a post-dated cheque to clear the amount taken,

is another cogent reason why it is viewed as perfectly normal and therefore not a fraudulent activity.

Diverting foreign exchange and other related malpractice is viewed as a perfectly normal business practice aimed at generating higher returns for the bank. Okorafor and Kanu (2013) study found that majority of the Occupational Fraud committed in banks, were attributed to the high level of bad debts and non-performing loans of banks, which distort their financial statements. Other activities include those of top management staff, who in most cases engage in unethical practices ranging from falsification of accounting statements, embezzlement of depositors funds, distortion of financial statements and the granting of loans and other credit facilities to high net worth clients (above their capital base and regulatory limits) without any significant form of collateral security, Impersonation; Manipulation of Vouchers; Falsification of Status Report, Money Laundering and Fake Payments. Okorafor and Kanu (2013) found that banks exerted little or no effort at recovering such loans as they seemed usually in a hurry to present the delinquent and toxic loans as bad debts in their accounting statements. Forgeries, deceit and other unwholesome practices have continued to be a way of life and the perpetrators have flourished overtime at the expense of the larger society.

Idolor's (2010) study of the banks in Nigeria *considered the level of competence* of staff in the early detection and control of fraud. The staff involvement in bank related fraud from the initiation stage, through to the execution and concealment stage were the causes of fraud. *Greed and*

poverty were the principal person-based factors cited, that encouraged bank employee involvement in fraud. Organizational factors which motivate involvement in bank fraud included inadequate staffing, poor internal control, lack of proper training and poor working conditions. PriceWaterHouseCoopers's Global Survey (2007) stated 54 per cent of banks worldwide report economic crime more than any sector; where most report that they recover very little of the money back. Other studies confirm that corrupt officials in senior positions in banks, have been known to have aided the transfer of illicit funds through bank transfers therefore contributing to capital flight in Africa, with over \$400 billion reported to being looted and stashed away in foreign countries; of which, around \$100 billion has been estimated to have come from Nigeria alone (UN 2002, 2005; World Bank 2007; Otusanya, 2012).

Characteristics of perpetrators in Nigeria:

Large scale Occupational Fraud schemes in Nigeria are *often linked to government officials*. Otusanya et al. (2012) used publicly available evidence to illuminate the role played by financial intermediaries in elite money laundering. Their study estimated that up to \$3.6 trillion of stolen money is laundered through the financial markets each year and that such huge amounts of money cannot be successfully laundered without the involvement of financial intermediaries (such as bankers and lawyers) who use their expertise to conceal and obscure illegal activities.

Barriers to effective prosecutions in Nigeria cited in the literature:

Ajagun (2012) revealed that there was a *significant relationship between leadership commitment and effectiveness of a selection of anticorruption policies (ICPC and EFCC)*. The result showed that poor leadership commitments exerted a negative and significant effect on the performance of anti-corruption policies (ICPC and EFCC). *However, some argue* that the loopholes in the anti-graft war were brought about through the overlapping of responsibilities between the ICPC and the EFCC.

When cases (high profile cases) have been detected and referred to the anticorruption agencies, the agencies faced various challenges. Agbamuche (2013) examined the functions and power of the anti-graft agencies and concluded that they were flawed because of their *inability to prosecute high profile cases to a logical conclusion*; which consequently stands as a major challenge in eliminating fraud and corruption in the society. He posits that these elites are not prosecuted diligently and they consequently abuse the criminal justice system. On the contrary, Sowunmi (2010) looked at the effectiveness of the crime agencies and concluded that they were succeeding in the fight against fraud by high profile individuals. They have also helped to improve the image of Nigeria to the outside world.

Dada et al. (2013) highlighted the importance of increasing the use of forensic accountants to help with fraud cases. A survey (using questionnaires and interviews) was carried out using the staff of the

selected anti-corruption agent (EFCC) and three major professional accounting firms in Nigeria for the period 1999 to 2010. This was done to test the relationship that exist between forensic accounting and fraud investigation and fraud detection to reduce fraudulent practices and to assess its effectiveness. Their study concluded that the non-involvement of forensic experts (Accountants) in investigation as well as prosecution, where a Forensic expert serves as a witness in court, is one of the challenges faced by the EFCC. Their study also highlighted the EFCC's inability to carry out proper investigations and present adequate evidences in courts in a manner for effective prosecution of the accused persons; consequently, leading to many dismissals of cases brought by EFCC such as those of James Ibori (former governor of Delta State, 1999 - 2007), Erastus Akingbola (Managing Director of Intercontinental Bank Plc, until 2009) and Ndudi Elumelu (Chairman of the House of Representative committee, until 2009). Professional accounting firms with expertise investigative skills using forensic accounting technique were also not involved enough in the commission's operations. Although at the time of that study there was low awareness of the forensic accounting technique as an effective tool for investigating and detecting fraud cases in Nigeria. The EFCC have since developed their forensic accounting unit, with Forensic Accountants, more handwriting and mobile phone experts.

Some studies allude to the Gatekeepers as being largely responsible for the erosion of credibility and public confidence, since those who are on trial have remained in high positions.

Agbamuche (2013) states:

"There is doubt about the whole process of prosecution, because the politically exposed persons are given priority in cases of fraud. "If there is going to be a serious fight against fraudulent activities in the country, then the prosecution must seek to deal with culprits equally"

Omotoye (2011) interestingly cites cases of conspiracy within the Nigerian Police Force and the Judiciary, where the NPF is responsible for perpetuating or covering up some of the most heinous crimes in the nation; and stressed that the cultures of honesty depended not only on good governance and impartial management of public resources but also the simple decision taken by every citizen to operate uprightly is important. The Nigerian Police Force was ranked as top of the list in Nigeria's Corruption Index (NCI) and have been *linked to many cases*; as well as the NIA. Others depict a country *where monitoring and governance is lax, giving allowance to an individual or group of individuals to take advantage of the opportunity* (Yusuf, 2009 and 2010; Idolor, 2010; Amoda, 2008; Akinkugbe, 1999).

In Nigeria, *corruption* is also considered as an endemic concern linked to fraudulent activities where the leaders are seen to lack commitment to ordinary citizens (Akinkugbe, 2012; Ajagun, 2009; Amoda, 2008), and see their offices as an avenue to acquire personal wealth consequently neglecting the social and economic progress of the country. Akinkugbe (1999) emphasized that lack of commitment exhibited by most leaders, increased the ineffectiveness of anti-corruption policies; also, that the blanket covers of immunity for leaders while in office provided in the Nigerian constitution encouraged corrupt practices for leaders. Using a

simple random sampling method, he selected a total of 2,000 respondents from the population of nine local government areas (counties) and examined the leadership efforts since Nigeria's independence. Majority of the respondents agreed that *poor leadership commitments* had a negative and significant impact on the performance of anti-corruption policies of the ICPC and EFCC. Reflecting, back in time since its independence, Akinkugbe (1999) stressed that Nigeria has had very *poor leadership systems which he linked to bad governance*. The following indicators in the Nigerian system were highlighted: Failure to make clear distinction between what is public and what is private, hence a tendency to divert public resources for private gains; Failure to establish predictable framework of law and government behaviour conducive to development or arbitrariness in the application of rules and laws; Excessive rules, regulations, etc. which impede the functions of markets and encourage rent-seeking; Priorities that are inconsistency with development resulting in misallocation of resources; and Excessively narrowly based and non-transparent decision-making

The efforts of the Nigerian Government to curb Occupational Fraud committed by High Profile individuals:

Nigeria's government efforts to monitor fraud to date have been problematic due to powerful interests in the federal, state, and local governments that oppose any anti-corruption reforms. Often these interests are members of the legislature, government, or are otherwise

powerful people; this shields them from investigations and prosecution (Heilbrunn, 2004; SR, 2012).

The country continues to remain mired with corruption, embezzlement cases, poverty, and violence despite several laws in place, as the principal mechanism for curbing fraud. The government continue to be the focal point for critics when it comes to efforts to eradicate this type of fraud.

Previous government have affirmed their zero - tolerance approach but it is becoming a rhetoric rather than reality, repeated by each new government with no evidence of improvement.

Olusegun Obasanjo, whose term in office 1998 to 2007 had been labelled corrupt and put in a more indefensible position perhaps, because the EFCC was established by him when he was the Nigerian president. Almost 95% of Obasanjo's cabinet were accused of being criminals and fraudsters (Sarka, 2017; Adisa, 2003; and Aiyetan, 2007). Instead of being a driving force for effectiveness, Obasanjo, critics accused Obasanjo of using the EFCC to discredit his opponent during the elections (BBC News Online 2007, 2010).

Goodluck Jonathan's government (5 May 2010 – 29 May 2015), has largely been described as corrupt and the main cause of Nigeria's current economic situation (Punch 2016; The Economist, 2016; Soludo, 2016; Olademeji and Opeyemi, 2013; Gyong, 2014; Nyako, 2014). Evidence indicate an era that was marred with various irregularities in

government spending (Sanusi, 2015; Okonju-Iweala, 2015), a sharp increase in reports on cases involving government ministers (Larmode, 2014); with several stalled and then put on standby for many years. It had been a contradiction of the government's promises which were later interpreted as "mare rhetoric" (Ajibiboa, 2011). Since Jonathan left his position, many former political office holders and appointees that served under Jonathan, as well as party members, have been arrested, and are facing various corruption charges (Premium Times, 2016a and b; The Economist, 2016). Many stated they had acted under the instruction of President Jonathan (Punch, 2016). For example, Goodluck Jonathan was alleged to have ordered over \$15 billion from the central bank to support his election campaign and other personal projects. A recent audit on the NNPC carried out by PWC also highlighted missing revenue that was due to the government remained unpaid. Investigations carried out by the PWC confirmed that between January 2012 and July 2013 cash that should have been remitted to the government for the same period was \$18.5bn. The former CBN governor confirmed this by stating that the \$18.5bn in revenues received by the state oil company was not sent to the government; and claimed \$12.5bn were diverted (Sanusi, 2015). Sanusi also stressed that the audit found various duplicated expenses, unsubstantiated costs, computation errors and tax shortfalls listed in the report against the NNPC. It remains unclear, and up until the point of writing, Jonathan has not been arrested over these allegations (Sanusi, 2015).

The Nigerian's Finance Minister, Okonjo-Iweala also asserted in an interview with CNN, that if an individual is caught, they go to the courts and they are let off lightly.

"The president can't do anything about that. The judicial system also has to be strengthened; Legislators also have to crack down. They themselves have to work at also being transparent and helping the executive" Okonjo-Iweala (2013).

This lack of faith in the system is a message that constantly resonates with lawyers who are forced to operate in what they perceive as a corrupt system. Keyamo emphasises this point in an interview with the EFCC:

"Well I think politicians would always be politicians. What you hear most of the time is political talk. Some promising to fight corruption, some said they have fought corruption, some say they are still mapping out strategies to fight corruption. I think it's all political talk. Politicians are just mounting corruption, nothing more" (Keyamo, 2015; p27).

The current government under the direction of President Muhammadu Buhari, has shown tangible signs of political will, but can only be judge by its tangible achievements if the occurrences of occupational fraud are driven down. He joins his predecessors in acknowledging the fraud epidemic and has also declared his determination, on numerous occasions, to combat fraud occurrences by driving a 'zero tolerance for corruption and fraud', campaign, through real actions (Economist, 2016, Babangida, 1988). Buhari confirmed that his government intends to seek out, pursue and prevent corruption and fraud; vowing to keep the system clean by making sure all its ministers operate in an upright manner. Buhari's regime has initiated various plans to reform the accountability

and reporting systems as most government agencies, including the revenue department do not currently make their budgets public; nor do most state and local governments revenue department. Financiers believe that the various reforms implemented by Buhari's regime could serve as a lesson to others in West Africa; where the continent's most famously fraudulent country might yet teach others about transparency (Economist, 2016).

Buhari has been plagued with what may seem as an impossible and an uphill struggle. When he came into power, he outlined his plans to improve corruption and tackle theft by public officials in Nigeria. Those were good intentions. However, his plans were devoid of the resources and support to take these forwards. Soon after his ascension into office, deviant acts emerged from his own cabinet. A few key personnel of the President's Buhari's administration have also come under the spotlight for alleged corrupt practices. They include the Chief of Staff, Abba Kyari; Minister of Transport, Rotimi Amaechi; and Interior Minister, Abdurhaman Dambazzau. Buhari in Sept 2016, was said to have sacked Kyari for the N500million bribe collected from the telecom giant, the MTN, to help reduce the fine levied by the regulatory agency (247ureports, 2016). However later reports confirmed he is still in his post.

President Buhari has also called various institutions to be accountable. More recently the Judiciary, who he claimed was not at the point where it met public expectations in its fight against corruption. Some of the reasons cited the literature were the delay tactics employed by lawyers

during court trials, despite the Criminal Justice Act of 2015; highlighting the fact that the courts allow some lawyers to frustrate the reforms introduced by law, consequently, working against the anti-graft agencies' mandate to prosecute crime (Ehikioya, 2016; New Telegraph Online, 2016). Undeterred, Buhari continues to urge for a Transparent, efficient and speedy delivery of justice and stressed that when cases are not concluded the negative impression is given that crime pays.

“The challenge is to come up with an integrated approach that balances process and substance, promote clarity to ensure a coherent and realistic formulation of objectives. To this end, the judiciary is duty bound to keep its house in order and to ensure that the public, which it serves, sees this. Thus, we cannot expect to make any gains in the war against corruption in our society when the judiciary is being distant from the struggle. This will not augur well and its negative effect will impact all sectors of society. “The judiciary must fight delay of cases in court, as well as it fights corruption within its own ranks perceived or otherwise” (Buhari, 2016).

The Chief Justice of Nigeria (CJN), Justice Mahmud Mohammed, however, stated that the fight against corruption and fraud is not the duty of the judiciary alone. Buhari has since progressed with more direct actions and arrested suspected corrupt judges. As Sani (2016) stated, “impunity is rooted in a society where Justice is for the highest bidder; corrupt Judges are merchants of Justice; and commercialization of Justice puts Justice on tender”.

Although the government in Nigeria have taken immense steps to combat this epidemic of crime, some critics say not enough is done and that their actions, as well as intentions are skewed. Saludo (2017)

Former Governor of the Central Bank of Nigeria (CBN), accused the President Buhari-led administration of worsening the state of Nigeria's economy and not achieved up to 25% of its manifesto from when it was elected.

Buhari, has actively focused his efforts on trying to retrieve lost revenue; i.e. monies that had been stolen and assets seized by foreign government; in the hope that it will be used to reduce the budget deficit. As he participated in a conference held in the UK, The President, delivered a keynote address titled, '*Why we must tackle corruption together*' at a pre-summit conference of development partners, the Commonwealth Enterprise and Investment Council, Transparency International and other civil society groups (Buhari, 2016b). President Buhari joined other participating heads of state and government on exposing corruption, tackling corruption and driving out corruption. His aim was to urge the international community to move faster on the dismantling of safe havens for the proceeds of corruption and the return of stolen funds and assets to their countries of origin. The President also reaffirmed his administration's unwavering commitment to the fight against corruption and the Federal Government's readiness to partner with international agencies and other countries to identify, apprehend and punish corrupt public officials.

Discussion

A deep dive into the literature reveals that both countries are plagued with power structures in many private and public institutions, which are

dominated by *nepotistic networks* that tolerate and even promote all manner of non-meritocratic and unethical practices among individuals. Prominent individuals or individuals in good occupational positions often have strong ties and feelings of indebtedness to their communities who have supported them through their childhood directly or indirectly, through their parents or grandparents. It is often viewed as a sign of an individual who has had a good upbringing. On the other hand, prospective individuals showing good potential as public speakers *or representatives are specifically trained and supported by the community for political and economic purposes.*

There are huge *financial implications for both countries because the impact of fraud not only rots the fabric of one society, but can be linked to and simultaneously affect other countries.* In situations where proceeds of crimes are transferred to other jurisdictions, the regulations and cooperation between those countries need to be enough to enable restitution.

This research is underpinned by the Association of Certified Fraud Examiners' (ACFE) reports and adopts the ACFE's definition for Occupational Fraud, which is defined as

“the use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources or assets” (ACFE, 2014, p.6).

The ACFE developed the *Occupational Fraud and Abuse Classification System*, also known as the “Fraud Tree” where the types of fraud discovered are classified into three categories: asset misappropriation, corruption, and fraudulent statements. The ACFE used detailed information about specific cases of occupational fraud that were investigated by Certified Fraud Examiners (CFEs) in over 100 countries, so that they could explore and illuminate the impact and risk of fraud. Its reports over the years have summarized the opinions of these Fraud experts, categorized the ways in which occupational fraud and abuse occur, analysed the characteristics of the individuals who commit occupational fraud and abuse; and, the characteristics of the victim organizations and the financial impact to them. Their reports also examined the anti-fraud control mechanisms implemented by companies and the methods used to detect fraud. Reports illustrate that fraud is not just a domestic issue but can be encountered in many countries throughout the world. Table 2.1 shows the number of cases reviewed in Africa in this study over the past six years; and cases relating to Ghana and Nigeria.

	2016		2014		2012		2010	
	Ghana	Nigeria	Ghana	Nigeria	Ghana	Nigeria	Ghana	Nigeria
Number of cases in Africa examined by the ACFE	285		173		112		112	
Number of cases chosen in Ghana & Nigeria	11	70	6	36	4	30	4	21

Table 2.1. Shows the number of cases reviewed in Ghana and Nigeria over the years in comparison to the sample size in Africa (designed using figures from the ACFE reports).

The ACFE's analysis was limited to the cases reported to the ACFE by Fraud Examiners who investigated those cases, and therefore does not necessarily reflect overall levels of corruption and fraud in the countries. The proportion of case sample in Nigeria were always the second highest, however the highest percentage of sample group came from South Africa. Out of the 2,410 cases examined worldwide, their 2016 study revealed that the banking and financial services, government and public administration, and manufacturing industries had the most representation of fraud cases. The mining and wholesale trade had the fewest cases of any industry in their study.

The ACFE's reports over the years have given some insight into the scope of fraud in Nigeria and Ghana, however, their study focused only on fraud cases that had been examined by Certified Fraud Examiners.

This study classes the high-profile officials as public service employees, who are well connected in the society as *'elites'* and that were put in charge of public budget. One common denominator with the ACFE's

study is that the cases in this study involve violations of trust. To operate public services in Ghana and Nigeria, the government entrust their employees with resources and responsibilities. When these individuals in public offices steal or misuse these public funds, the impact goes beyond financial losses.

Nelken (1994, 2010) and Pakes (2014) stress the implications and the challenges of carrying out any comparative study are not always straightforward. Therefore, to gain a better understanding, this study examines the criminal justice practices in both countries from the setting that shapes them and the conditions within which they must deal with. To be understood therefore, Ghana and Nigeria are evaluated individually; giving consideration to the backdrop of their local conditions. The next section starts by describing the economic profile of both countries; evaluates the existing literature around the types of Occupational Fraud that exists in both countries; the demographics of perpetrators; and the barriers to prosecution. Gleaning from the PESTEL Model, the Legal, Economic, Political, and social backdrop within which the counter fraud agencies operate in are also discussed. This will give a broader understanding of the pressures that exist in both countries.

CHAPTER 3

This chapter evaluates the Legal, Economic, Political, and social backdrop within which the counter fraud agencies operate .This will give a broader understanding of the pressures that exist in both countries. It begins with an overview of each country, followed by discussions around the background within which the counter fraud agencies operate.

An overview of Ghana

Formerly known as the Gold Coast, Ghana gained independence from Britain in 1957, becoming the first sub-Saharan nation to break the chains of colonialism. Ghana's population has grown at a steady rate of 2% since 2012; its population was estimated at 27.4 million people in 2015 (World Bank, 2015). It is made up of the following ethnic groups; 48% classed as Akan, 17% Moshi-Dagomba, 14% Ewe, 7% Ga, 6% Gurma, the rest of the population fall into an "other" category. 71% are said to be Christian, 18% Muslim, 5% follow other indigenous beliefs; with 6% falling into an atheist or other categories (BBC, 2016, CIA, 2016).

Ghana's main exports are gold, diamonds, cocoa beans and timber products, tuna, aluminium, manganese ore and horticulture. Since the 15th century when Ghana was colonized it has maintained its reputation as the "Gold Coast" because of the large gold resources found in the area. Cocoa is also one of Ghana's important resources, and it stands

as the world's second-leading producer of cocoa (IHS, 2016; CIA, 2016; BBC, 2016). Oil and mining industries however are the main drivers of growth. The economy is driven mainly by agriculture and mineral mining. Oil production expanded and helped boost the economy, although in 2015 oil revenues slumped from the global oil price crash, but production capacity is expected to increase by 2018. About 7.5% of Ghana's wealth is now driven by Oil production. This wealth is re-invested into the economy. The Government of Ghana has put in place the Petroleum Revenue Management Act (PRMA), which guides the management of the petroleum revenues; it provides the legal framework for the collection, allocation, and management of petroleum revenue in a responsible, transparent, accountable, and sustainable manner for the benefit of the citizens of Ghana. The Public Interest and Accountability Committee (PIAC), was setup to fulfil the PRMA's mandate.

Ghana is currently experiencing an infrastructure funding gap, so attracting foreign direct investment continues to be a priority for the country (World Bank, 2016; IHS, 2016). The population of Ghana living below the poverty line dropped from 52.6% to 21.4% from 1991 to 2012 (World Bank, 2016).

The Media

In Ghana, there is evidence of predatory behaviour by the government but it is constrained by the existence of watchdog agencies, civil and other agencies, and the role of media. Indeed, both CHRAJ and EOCO

provide a preventive presence although they are perceived in the media as having lost some of their independence and occasionally the public's trust in recent years. There has been a growing openness and awareness with the expansion of the media; the newspapers and radio stations (FM radio do not require licences). The radio stations and television network have also increased their phone-in programs, creating an additional platform for citizens to air their views. Civil society groups demanding accountability now have a greater sense of free speech. Gyampo (2017) described specific ways in which political parties in Ghana have deployed social media in advancing their interest and in their quest to tap into the advantages of social media in prosecuting their ultimate agenda of capturing political power.

The media's role however, is significant enough not to be intimidated by government; possibly because there are too many media organisations to be dominated by any owners with party connections. Seemingly, the media's influence on reports of Occupational Fraud in Ghana is positive, as several media organisations publish a range of corruption stories that have caused the government to act promptly, either by removing an offending minister or public officer; or has initiated investigations.

Based on observations during my two visits to Ghana, the citizens of Ghana are generally very passionate about their country and take great pride in knowing they have a part to play in the country's progress. Occupational fraud is one of the citizens' prime concerns. A recent public survey by the Ghana Integrity Initiative (GII, 2016), which is a national

chapter of Transparency International (TI), found that ninety per cent of respondents felt that corruption was a serious problem in the country which facilitates fraud instances and is a stumbling block for the country's progress. But on the whole corruption and limited administrative capacity continue to pose the biggest challenges.

The following paragraphs explores the impact of fraud on Ghana.

The Legal System

The Judiciary is guided by its core value and mission;

“To resolve legal conflicts according to law, impartially and efficiently to all persons without fear or favour, affection or ill-will. We do this by the true and proper interpretation, application and implementation of the laws of Ghana” (The Judicial Service of Ghana, 2016).

Ghana's legal system and the hierarchy of the court is based on British common law and customary law. The judiciary comprises both the lower courts and the superior courts. The superior courts are the Supreme Court, the Court of Appeal, and the High Court and Regional Tribunals. The Supreme Court has broad powers of judicial review. Lawsuits are allowed and usually begin in the High Court. The High Court has authority in all matters, civil and criminal, with exception of those involving treason.

The Government of Ghana (GOG) established fast-track courts to accelerate the process in certain cases. These fast track courts, which are automated divisions of the High Court, were intended to oversee cases which can be concluded within six months. However, they have not succeeded in consistently disposing of cases within six months.

In March 2005, the government established a commercial court with exclusive jurisdiction over all commercial matters. This Court also handles disputes involving commercial arbitration and the enforcement of awards, intellectual property rights, including patents, copyrights and trademarks, commercial fraud, applications under the Companies Code, tax matters, and insurance and re-insurance cases. A distinctive feature of the commercial court is the use of mediation or other alternative dispute resolution mechanisms, which are mandatory in the pre-trial settlement conference stage. Arbitration decisions are enforceable provided they are registered in the courts. Ghana also has a Financial and Economic Crimes Court. It is a specialized division of the High Court that handles high profile corruption and economic crime cases.

Prosecutions in Ghana:

Although the courts have improved the speed and efficiency of the judicial processes with 'fast-track' courts to expedite action in some cases, some decisions and judgements on cases remain slow, with many high-profile cases currently awaiting trial process to commence fully in the law courts. There is a perceived high level of corruption in the judicial system (ICS, 2014). Ghanaian courts are often prone to corruption due to scarce resources and underpaid judges, who are tempted by bribes. Courts are generally slow in ruling on cases and face challenges in enforcing decisions (FitW, 2014). GII (2015) stressed that the high number of judicial officials implicated in one recent fraud and corruption investigation in the judiciary, points to a systemic problem that

needs to be addressed urgently; and that the Judicial Council's findings and recommendations should be made public to regain public confidence.

“Only a transparent handling of these investigations and subsequent sanctions for those found guilty will help Ghana avoid any possible negative impact that these allegations could have on the justice delivery system in Ghana,” (Vitus Azeem, Executive Director of GII, 2015).

President John Mahama while in power, removed several high profile public servants from their post on numerous occasions based on the recommendations of committees ordinarily set up by the Chief Justice to investigate any misconduct or misappropriation of public funds (CitiFM, 2015; Spyghana, 2013a). But these processes are not always transparent.

There is a history of government intervention in the court system, but less in commercial matters. The courts have, when the circumstances require, entered judgments against the government. However, the courts have been slow when disposing cases and at times face challenges in enforcing decisions, largely due to resource constraints and institutional inefficiencies. Though the Ghanaian courts have tried to act with increased independence with little or no apparent evidence of direct government interference in judicial procedures in the past two decades, corruption remains evidently rife within the system, an enabling factor for fraud to go unpunished (GIT,2007; Bertelsmann Foundation, 2010).

The government have continually claimed that the judiciary is relatively independent (Mahama, 2016) and that there has never been any instance of government interference in judicial procedures, but the president is influential in the appointment of all superior court judges, including the chief justice. The attorney general is both the head of the prosecution services and legal advisor to the president and this raises questions about the independence of prosecutions and the government is often criticised by the opposition for exerting “selective justice” (Amidu, 2017; Freedom House, 2010). Amidu’s (2017) criticism is centred on the attorney general’s power to launch or end a prosecution without explanation.

High ranking officials and politicians continue to enjoy high-level protection from prosecution and the Ghanaian President is also immune from prosecution (Global Integrity, 2009). In 2005, a strict code of conduct for judges was been developed and complaints against judges and judicial staff were permissible through the Judicial Service’s Complaint Unit. However, the judicial accountability is still seen as very weak due to corruption. Factors like low salaries and scarce resources are cited as drivers of corruption and provide judges with incentives for corruption and rent-seeking behaviour (Global Integrity, 2009; Freedom House, 2010). Although, with the provision of regular legal education and training the level of judicial competence is said to have improved in recent years where the courts are often slow in delivering justice and

face the challenge of enforcing decisions (Business Anti-Corruption portal, 2010).

The structure of the Government in Ghana

Ghana has a *unicameral* Legislature composed of 275 Members of Parliament from single-member constituencies with an Executive President who appoints Ministers majority of whom by the Constitution come from Parliament (POG, 2004). Executive authority resides with the president, together with the Council of State, who is usually elected for a four-year term. The president is head of state, head of government, and commander in-chief of the armed forces. Legislative functions are vested in Parliament. In practice, legislative powers are highly constrained by Article 108 of the constitution, which prohibits Parliament from initiating any bill that has any financial implications. To become law, legislation must have the approval of the president, who has a qualified sanction over all bills except those to which a vote of urgency is attached. Members of Parliament are also elected for terms of four years, except in wartime, when terms may be extended for not more than 12 months at a time beyond the four years.

Their Parliament operates similarly to the Parliament of Westminster in the UK. It follows to some extent, the Westminster model, making provision for Ministers to be questioned in Parliament, and for Members of Parliament to make statements on matters of public importance, for them to introduce motions on the matters which they consider important

and for them to approve the policies of Government in general. The Government, for example, cannot engage in any international agreement without the approval of Parliament.

An overview of Nigeria

Nigeria's 182 million population is split by three main ethnic groups, the Hausa-Fulani, the Yoruba, and the Igbo, who are also divided by religion and geography (BBC, 2016; CIA, 2016). Many Hausa-Fulani, who dominate the northern two-thirds of the country, consider themselves Nigeria's natural leaders. The Yoruba are evenly divided between Christians and Muslims, and the Igbo are mostly Catholic. Interspersed with these three groups are more than 200 politically weak and economically exploited ethnic minorities, each with its own cultural traditions and values. Collectively, they comprise the numerical majority of the nation's population. The country often stand divided on many issues which are often linked to ethnicity or religion. This disparity overflows into political and economic decisions made by the ruling party.

Nigeria is one of the top producing oil companies in Africa and has great potential of being part of the world's top five oil producers (Organisation of the Petroleum Exporting Countries; OPEC, 2016). Also, a recent Oil & Gas Report, by Business Monitor International, classed Nigeria as having the 3rd highest refining capacity in Africa. Nigeria's proven oil

reserves place it among the world's eleven most oil-rich countries and for many years has been a target for investment by international oil companies such as Royal Dutch Shell, Exxon Mobil, and Chevron.

Other resources include an abundance of coal, some iron, and a wide variety of tropical food and commercial crops. Nigeria also has other thriving industries such as the Auto trading and Telecommunication industry. Etisalat (from the Middle east) and Airtel (Indian owned) have both entered the African market, providing services for both Ghana and Nigeria and competing with current largest telecoms provider, MTN which owns 45% of the Nigerian market share (NCC, 2013). The mobile phone industry also contributes 8.53% to the country's GDP.

Despite the country's richness in natural resources and scope for economic growth (BBC, 2014a; Economy Watch, 2010), opportunities for development have often been overshadowed by its notorious culture of fraud over the years.

Although, the wealth generated by its natural resources can be considered as one of its success stories, Nigeria is still considered as one of the 20 poorest countries in the world; with about 70% of the population still living below poverty line (IMF, 2016, 2015, 2012). It depicts a disappointing picture where there is an uneven distribution of its oil wealth. There is a rising percentage of its population living below the poverty line (World Bank, 2016; Annan, 2014; The Economist 2016, 2007; McConnell 2007). The employment rate was said to have

increased from 21% to 24%. Nearly 38% and 22.4% in the 15-24 and 25-44 age bracket remained jobless. Also, graduate unemployment is on the increase. PWC's (2016) study of living standards suggested that 61.2% of the population in Nigeria live in absolute poverty.

Nigerians who took part in a Transparency International survey, felt that corruption had increased in the period 2014 – 2015. The very low levels of public trust in government, is highlighted by the 78% who felt the government was doing badly in the fight against corruption (TI, 2016).

The structure of the Nigerian Government

The 1999 constitution in Nigeria provides for a *bicameral* National Assembly consisting of a 360-member House of Representatives and a 109-member Senate. The president heads the executive branch of the government. The Senate is one of the Chambers in Nigeria's bicameral legislature, the National Assembly (NASS). The NASS is the nation's highest legislature, whose power to make laws is summarized in chapter one, section four of the 1999 Nigerian Constitution. The Senate is ruled by the President of the Senate assisted by the Deputy President of the Senate (NASS, 2016a). These Presiding officers serve as political heads. There are one hundred and nine (109) members in the Senate corresponding to the 109 senatorial districts in the country. Senatorial Districts are evenly distributed among the thirty-six states. Each state has three senatorial districts while the Federal Capital Territory (FCT), Abuja has just one senatorial district. The House of Representatives is the second chamber in Nigeria's bicameral legislature, the National

Assembly (NASS, 2016b). The House of Representatives is controlled by the Speaker assisted by the Deputy Speaker. These Presiding officers serve as political heads. There are three hundred and sixty members in the House of Representatives representing the 360 Federal Constituencies the country is divided into based on population.

The culture

Several facets in this society play a major role in directly or indirectly cultivating the setting for occupational fraud to flourish. Mabiaku (2016), an activist in Nigeria, describes the leaders as “execu-theives” and “legislooters” as he reiterates his disregard for the current leadership of President Buhari, whose attempt he sees as ineffective. His angst centres around the need to justify the salaries the governors or those in power earn; or the extra remuneration they feel are owed to them; in a country where a high percentage of its citizens are known to be in abject poverty.

Nepotism:

Highlighted in the literature, nepotism is a common feature in the culture of the Nigerian society as an individual’s family ties and personal connections play an important role in the appointment of individuals to public positions, as well as opportunity for promotions and remuneration (Ekanem & Ekefren 2013; Ndem et al. 2012). For instance, Ekanem & Ekefren (2013) discussed how a former Minister of the Federal Territory

appointed his wife and children to positions within the land administration.

Okafor (2005) suggests that Government institutions are constantly filled according to ethnicity, religion or political affiliation rather than merit and professional qualifications. The reports in the media also depict stories where well-connected individuals who are appointed to public positions without ever appearing to work (ghost workers). Also where there are increases in the number of public jobs created to accommodate ethnic and political groups, as well as to reward officials who turn a blind eye to irregularities (All Africa 2013). Media reports, have also highlighted situations where there have been recruitment-related scandals in several federal bodies – particularly in those regarded as “lucrative”, such as the NNPC, the customs services, the army and financial institutions (All Africa 2013).

Accepting corruption and bribery as the norm:

Evidence suggests that corruption and bribery are the country’s social norms. High tolerance for corruption and acceptance as an everyday norm for the society to function has perhaps been a major problem for for many years. But this can be linked to an individual’s greed and the philosophy to “*get rich quick*” where their monthly salary is not appreciated as enough for them to carry out the job they had been employed to do. For example, payments made to police to carry out their job speedily is acceptable behaviour. The local senior management

team will be aware of this transaction and perhaps take a cut, subsequently accepting this as part of the cost of business.

Bribery has evolved from being naturally accepted as a routine official process to a globally defined act of “corruption” that can lead to fraud. Consequently, this creates challenges for organizations trying to educate local employees and companies as to what is acceptable and unacceptable behaviour as part of any anti-fraud programs.

Kalu and Stewart (2007) link the increased production of Oil and Gas since the 1970s to having influenced social norms in Nigeria and driven corruption and fraud. The discovery of oil in Nigeria brought a huge increase in state revenue, and consequently a struggle for resources among different ethnic groups. The literature highlights the negative impact of oil revenue on Nigeria’s social development and good governance; and refers to it as the “resource curse”. Existing evidence suggests that state control of oil resources gave rise to a struggle to control the state and subsequently the oil revenues (Amundsen 2010; Beekers & Gool 2012). Like several other resource-rich countries, Gillies (2009) highlight how Nigeria became a “rentier state”, where the political class seeks the control of the state, using diverse means that include corruption and fraudulent means to capture the yield generated from natural resources for their personal enrichment.

Immunity from prosecution

Immunity as public officials is a system that has been exploited in Nigeria. The EFCC on many occasion have also confirmed this factor as a constraint when it comes to prosecuting high profile individuals. Prosecutors often fail to prosecute high profile fraud cases because the cases involve high-profile government officials who are still in power. In some cases, even when out of office they have influence over those in power and consequently can influence prosecutors and judges in their favour.

Some empirical researchers have highlighted investigations linked to cases in Nigeria, which stretch into other countries such as the US and the UK; illustrating how embezzlements have led to money laundering in many jurisdiction, where properties are purchased (Ikejiaku 2013; Worldbank, 2011, Guardian 2012; US Department of State 2014). But there are legal loopholes and institutional weaknesses that allow officials to embezzle public money and transfer their loot worldwide. However global leaders are beginning to see this threat and are working together to tighten investment laws and close any gaps in their system to stop public officials transferring their loots.

The media and statistical reports

The media, it seemed, picked up more of the 'big cases involving prominent individuals' and 'scandals' more than the typical everyday cases. This is often the case as the big cases sell more papers. In

Nigeria, the power of the media, the 'sensationalization' and over dramatization of news is often controlled by political parties, the Government in power or even some elites (Adesoji and Alimi, 2012; Ajobode and Akingbule, 2009; Omenugha et al. 2013).

Abacha's regime discouraged freedom of press when Ken Saro wiwa, a well-known Nigerian Journalist and activist, was sentenced to 'hanging' in 1995, in the name of 'justice' served during Abacha's reign when he tried to expose the then government of various corrupt practices in the oil industry (BBC,1995; Cohen, 2009; Onishi, 2000; Pilkington, 2009). Death was also the fate of another well-known Journalist, Dele Giwa, who was assassinated in 1986 with a letter bomb that was delivered to his house (BBC, 2014b).

Evidence also shows how the news in the media can easily be manipulated by high-profile individuals. For instance, the former Governor of Abia State, Orji Kalu who was linked to occupational fraud in the past sits as Chairman on two daily print newspaper's executive boards; The Daily Sun and New Telegraph. Kalu, like many high-profile individuals in Nigeria also has links in various consortium of companies. Consequently, individuals like him are well placed to influence the news in their favour or against an enemy. Many who rely on reports in the Nigerian press as well as all foreign news about occupational fraud in Nigeria may easily accept an alarmist view. On the other hand, those who also rely on the press releases of the agencies will also believe that the agencies are fighting these types of crime successfully and bringing 'all' culprits to justice.

The Legal System

Nigeria has a multifaceted, three-tiered legal system which encompasses the English Common Law, Islamic law, and Nigerian customary law. Most business transactions are governed by “common law” as customized by statutes to meet local demands and conditions. At the top of the judicial system is the Supreme Court, which has original and appellate jurisdiction in specific constitutional, civil, and criminal matters as covered by Nigeria’s constitution. The Federal High Court under sec 350 -1 has power over revenue matters, admiralty law, banking, foreign exchange, other currency and monetary or fiscal matters, and lawsuits to which the federal government or any of its agencies are part of.

Discussion

Oil and Gas exports contributes significantly to both economies (Economist, 2016, Oyewale, 2013; McKinsey Global Institute 2014). With vast amounts of resources, both countries have great potential to become global leaders; poised to become important players in the global economy (PWC 2014; IMF WEO database, 2014; Mbaku, 2013). Although, natural resources in many developing countries, are often seen as the main income drivers (World Bank 2015; Barma et al. 2012:1) where the extractive industries sector is both shaped by and in turn, has an influence on political, economic, societal, and institutional dynamics; the same dynamics is said to attract challenges for the countries,

(Agbibo, 2011; Kalu and Stewart, 2007) resulting in a viewpoint that countries rich in oil and gas resources are likelier to be cursed than blessed (Moss & Young, 2009; Segal, 2009; Shaxson, 2008) - “The curse” view point.

The reporting of endless streams of Occupational fraud activities within Ghana and Nigeria and the impact these activities have on other countries globally, continue to make negative headlines. However, all claims about prevalence must be approached with caution as crime are not always uniformly defined, reported or recorded. Crime in both countries are monitored by a wide range of stakeholders ranging from counter fraud agencies, various non-governmental organizations (NGOs), media, the courts, Law chambers and crime bureau. The media are often accused of colluding with the counter fraud agencies to sensationalize cases.

Scholars have also attempted to diagnose the causes and effects of the relentless fraud in these two countries. The preliminary review of literature reveals various key themes. The *gatekeepers whose duty to uphold an orderly state is seen to be contributing factors to fraud and abuse* (FAFT-GAF, 2010a; TI, 2012 and 2009; Omotoye, 2011; SR, 2004). Gatekeepers included insiders, who have knowledge and understanding of the businesses within which they operate and can access financial systems and provide expertise through their position of employment; Supervisors, managers, company secretaries, treasurers and directors in organisations can be the perpetrators; also, government officials entrusted in law enforcement institutions.

A picture is created, of *inconsistent systems* where perpetrators are dealt with *differently according to their class and connection in the society and not according to the crime.*

Some studies cited an increase in fraud cases in Ghana and Nigeria despite the increase in agencies to monitor organisations (Shehu, 2005; Sowwunmi, 2010; TI, 2012, 2011a; and ACFE, 2014, 2016). In the TI (2012) study, 60% of the respondents in Ghana and 73% in Nigeria believe that corruption has continued to increase in the past three years.

Justification for comparison



The study of Occupational Fraud is an established area, with many theoretical views stemming from the “White collar crimes” highlighted by Sutherland (1983). However, there are empirical gaps when it comes to comparing Ghana and Nigeria under this topic area. Empirical studies in these countries have lacked theoretical background on *the characteristics of perpetrators* within the context of their crime in these two countries, neither do they consider the influence of cultures on control of occupational fraud and the challenges it causes for the counter fraud agencies when prosecuting these high profile individuals. There is an extensive literature on Occupational Fraud in Nigeria, but very limited research has been carried out in Ghana where the focus is predominantly on Romance Fraud.

Subsequently, this study will highlight these features, as well as wide-reaching similarities and differences in both countries. This feeds the need for an analytical study at the foundation of fraud cases within the context of Ghana and Nigeria. This study will have some bearing on other African countries and worldwide perception. The act of fraud already has an impact on foreign investments, global competitiveness, and damages economic development objectives. This chapter emphasises the view that tackling occupational fraud may not be as straight forward as some empirical studies have prescribed because the backdrop discussed makes it easy for these types of crimes to be embedded in the both economies.

Occupational Fraud and abuse cannot be tackled in isolation, so every effort towards greater understanding in different contexts counts. No empirical research has compared Ghana and Nigeria under this topic area in such depth. The rationale for choosing Ghana and Nigeria for this study relates to the fact that both countries over the years have been plagued with occupational fraud (BBC 2016, 2015, 2016; HRW, 2011, 2007 (a), (b); World Bank, 2016). Both countries hold the potential to serve as a regional hub for trade and investment in West Africa. They are set to benefit from an increase in the level of trade and investment between the two countries (KPMG, 2014).

Both countries are influential actors in African politics and have very broad connections, including history compared to other African countries (Jerven, 2012; Franklin, 2011). Although each country has its own unique social concerns, intellectual milieu, political traditions, historical

development, theoretical emphases and biases, they share other characteristics. Affirming the interconnectedness of both countries lies beyond highlighting their shared inheritance in language, culture, names and cuisines; they are bound together by their trading relationships and shared history.

A comparative analysis will give a suitable context to explore the contemporary situation of occupational fraud in both countries; highlighting aspects, which were not explored in previous studies. The intent therefore, is to expand on the field of Occupational Fraud by applying the theories of 'culture's consequences and the elite' to explain the challenges faced when prosecuting occupational fraud cases.

This gave good grounding for comparing both countries, even though Nigeria's population is significantly larger than Ghana's. It is therefore important to discuss these connections to understand the depth of the relationship between both countries. Through the narration of this backdrop, we begin to get a glimpse into how elitism evolved in these countries. The following paragraph gives a succinct insight.

Pre-colonial accounts of interactions in the 12th and 13th centuries illuminate how both countries benefitted from each other in the past. This includes trade in salt, gold, dyes, textiles, jewellery and kola nuts between Gonja, in Ghana and Kano, in Nigeria (Figus, 2017; Kalu, 2010). This trade, valued in millions of cedes annually, helped both countries sustain a relationship and created a bond between the two notable West African countries.

The sombre period of their shared colonized history is highlighted in the literature (Okeke, 2015; Decker, 2010). In the 1400s to mid-1800s centuries, millions of West Africans were captured against their will and sold as slaves in Europe, America and in the Caribbean. A close examination of the historical and economic context behind colonization reveal some conquest, intimidation and coercion suffered during this period by the indigenous people in Africa, therefore highlighting this era as a negative period in history. Some scholarship in this area argue it was a period when both countries and other African countries benefitted from because the indigenous traders increased their wealth through not only the sale of labourers (slaves) but from other products like gold, cocoa; consequently, causing an ascent of '*powerful elites*' (as cited by Daignan and Ganns, 1975: in their clear account of the German African empire of 1884 - 1914). These elites capitalised on the opportunities the International trade brought. One of the main attractions to Ghana was its gold and Nigeria, its mineral resources (Okeke, 2015; Azubuike, 2009). Consequently, some scholarships point emphatically to past balance sheet accounts of the European traders to assert that the imperial powers made little or nothing out of Africa (Clark, 1936; Hayter, 1965; Decalo et.al., 1996). They claim that the imposition of imperial power was economically liberating for the countries; providing opportunities previously denied by political disorder, lack of transport and communications, absence of skills and knowledge.

These claims, however, is refuted by divergent views such as Landes' (1998), which may resonate alternative interpretation of that era as he

affirms that 'Imperialist exploitation consists in the employment of labour at wages lower than would obtain in a free bargaining situation; or in the appropriation of goods at prices lower than would obtain in a free market. Imperialist exploitation, in other words, implies nonmarket constraint' (quoted by Duignan and Gann, p. 14). However, as Rimmer (1984) explains in his review of Landes' (1998) assertions, exploitation in this sense certainly existed in colonial Africa, but even though it impeded or deterred commercialized production, its effect would have been to raise rather than lower the prices of African exports relatively to imports. Conceivably, Rimmer (1984) stretched the works of Duignan and Gann (1975) to demonstrate the view that, though material progress in Africa may have been faster without colonialization and would eventually have been achieved, it will be difficult to prove.

The de-colonization in the 1950s and 1960s ushered in a parallel development phase for both societies. The Ghanaians got their independence on 6th March 1957 before Nigeria, who got theirs 1st October 1960 (BBC 2016, 2013b). Since their independence, they have shared the direct consequences and impact of political upheavals, economic instability and drastic decisions made by their past government. When Rawlings seized power at the end of 1981 through a coup, Ghana's economy dropped drastically and became stagnant (Kamoche, 2004). There were no jobs or prospects. Many left Ghana, and relocated to Nigeria in search of better opportunities; being that it was one of the closest neighbouring countries easiest to get to.

Sadly, by January 1983 under President Abacha's regime, more than one million foreigners, mostly Ghanaians were ordered to leave Nigeria (Figus, 2017, Kalu, 2010; Eades, 1994; Brydon, 1985: UN, 1983; Peil, 1974). The reason given was that they had overstayed their visas and were taking jobs from Nigerians. Ghana and Nigeria once again shared anxieties and trauma; where many were displaced and separated from what they thought was going to be their new home; many had good jobs, some had created new businesses and family; as well as developed good friendship but had to leave the country.

Despite their conflict and various economic and political upheavals over the past years they have continued to form partnerships to build their economies. Ghana and Nigeria have now become a regional centre for international conferences, training and meetings. They have developed positive relations with neighbouring countries and has shown a persistent commitment to the objectives of the Economic Community of West African States (ECOWAS) as well as the African Union to improve the continent by 2063.

The next chapter examines the international support received by the agencies and how it aids their work. It also examines the scope of the agencies and their progress so far since they were setup.

CHAPTER 4

INTERNATIONAL COLLABORATIONS TOWARDS FIGHTING OCCUPATIONAL FRAUD IN GHANA AND NIGERIA

This chapter outlines the various support given by big donors from all over the world; with some emphasis on their objectives and span of funding. This gives some recognition into the important role they play in helping to combat this crime.

The efforts of these international organisations cannot be ignored as they have helped to sustain the framework in both countries. They support local anti-corruption efforts. These organizations worldwide are now recognizing occupational fraud as a global problem and now embracing the need to collaborate by forming strategic partnership with the Economic and Financial Crimes Commission to counteract fraudulent activities (World Bank, 2016).

The World Bank supports interventions aimed at improving economic governance and stabilising Ghana's economy by restoring budgetary discipline and tackling historical public sector and energy issues. The Bank, in particular supports investments made in demand and supply-side approaches in order to improve natural resource management. Through its Oil and Gas Capacity Building Project, The World Bank also supports oil management. The government of Ghana have proven to be

cooperative, constructive, reliable and dynamic partner in the international arena (Bertelsmann Foundation, 2010).

Many international involvements have also focused on promoting civil society participation and strengthening citizens' demand for good governance. For example, donors in Ghana have successfully supported anti-corruption partnership building such as the Ghana Anti-Corruption Coalition (GACC) which has over the years received support towards the implementation of its core and project activities. Other GACC funders include United Nations Development Programme (UNDP), United States Agency for International Development (USAID), and Disability Rights Fund.

DFID, through its Governance and Transparency Fund also supports several anti-corruption related initiatives, including promoting transparency various sectors; in the water, forestry and education sectors, as well as in budget processes.

The United States Federal Trade Commission (FTC), signed a Memorandum of Understanding (MoU) with the EFCC and the Consumer Protection Council (CPC), to increase cooperation and communication; to identify concrete areas of collaboration and to establish joint training programs as well as aid regarding specific cases and investigations (FTC, 2013). Their primary goal in Nigeria is to support the country's development as a stable democracy while reducing extreme poverty.

USAID's contribution puts special emphasis on improving local governance, also activities aimed at increasing citizen participation, with especially women. The democratic processes and the strengthening of parliamentary and citizen omission of the executive and local government are also key areas monitored to ensure that national and local governments are responsive to the interests of their citizens especially in the health and education sectors. Table 4.1 summarizes an example of the level of assistance given to Nigeria from 2013 to 2017 and the monetary values.

Table 4.1 Showing the State Department and USAID Assistance to Nigeria (\$ 1,000)

	2013 Actual	2014 Actual	2015 Actual	2016 Request	2017 Request
Development Assistance	76,920	71,000	57800	76,016	72,658
Economic Support Fund	0	0	4,600	0	0
Foreign Military Financing	949	1,000	600	600	500
Global Health Programs – State	455,746	456,652	403,236	356,652	356,652
Global Health Programs –USAID	165,451	173,500	173,500	173,500	173,500
International Military Education and Training	712	730	817	730	800
Non-mml; proliferation, Antiterrorism, Demining and Related Programs	0	100	0	0	0

Another, multifaceted organisation active on governance and anti-corruption in both countries is the United Nations Development Program (UNDP). Part of its governance programme, aims at strengthening participation in decision-making and decentralized governance processes at all levels. In particular, a UNDP Civil Society Resource Centre has been established to further strengthen the capacity of civil

society organisations to engage decision-makers on national development issues. UNDP also seek to improve access to justice and promote human rights especially for the poor and disadvantaged, through institutional capacity development and public education and engagement. The UNDP also operates programs involving governance and justice, as do other international donors. Besides its 2030 Agenda, it is collaborating with African countries who have committed to implementing the African Union Agenda 2063, which is both a plan to build a more prosperous Africa in 50 years (UNDP, 2016).

Investigative Assistance

Both countries benefit from investigative assistance from the UK and US to recover the proceeds of corruption that are either held in that foreign country; or have moved through their foreign jurisdiction. Firstly, they must be able to identify the assets or assist the country in identifying the assets. Mechanisms available to Ghana and Nigeria in a foreign jurisdiction in identifying assets is often to request informal investigative assistance. Informal Investigative Assistance often involves Informal evidence gathering where the country assisting may offer support to a foreign investigation using routine investigative measures such as witness interviews, visual surveillance, public record searches, and providing public documents. This request may also cover assistance from foreign law enforcement authorities.

Ghana and Nigeria are part of the investigative networks related to the recovery of proceeds of corruption, or proceeds of crime. These include

the Camden Asset Recovery Inter-Agency Network and the Asset Recovery Focal Point Initiative (supported by StAR and INTERPOL). These networks also facilitate informal investigative assistance and cooperation.

Formal Investigative Assistance

Mutual Legal Assistance (MLA) are formal requests obtained to help a case. This may include assistance such as formal service of process, compelled or sworn testimony, production of financial or third-party records, authentication of records, and searches can also be made based on a bilateral mutual legal assistance treaty (MLAT), multilateral convention, or discretionary letter of request. Formal requests are necessary to enforce restraining orders or execute forfeiture judgments. Requests for legal assistance are executed subject to the terms of the treaty or convention stipulated (if any) and U.S. domestic law.

Egmont Group of Financial Intelligence Units (FIUs).

In May 2007, Nigeria was admitted into the Egmont Group of Financial Intelligence Units (FIUs). This is an association of 127 FIUs from around the world that have agreed to share financial intelligence with one another in support of criminal/terrorist investigations. In line with domestic legislations, law enforcement officials from a member state of Egmont can request for financial intelligence from another member state through its FIU. This information may include bank account information, cross-border cash transportation, criminal information, and records that

may be on file with a public registry. Public money stolen by an individual can then easily be traceable.

The European Development Fund

In 2006, the EFCC and the Nigerian Judiciary received 24.7 million funding from the European Union under the 9th European Development Fund. This was to strengthen the operational capacity of the agency. This included the provision of specialized training for staff and management; the delivery of basic operational equipment as well as state of the art IT systems, the building of the EFCC's Training and Research Institute, as well as the creation of a forensic laboratory. The EU fund assisted the agency in policy, advocacy and outreach programs. The funds also support the development of a national anti-corruption strategy, the establishment of a national network of civil society organizations advocating for the fight against corruption and governance reforms; as well as the development of specialized non-conviction based asset forfeiture legislation aimed to further enhance the effectiveness of law enforcement action against corruption. The integrity and capacity of the justice system at the Federal level and within 10 Nigerian States have benefited from this support.

Other Assistance from the UK and other countries

The Economic and Organized Crime Office (EOCO) of Ghana has received support from the British government which range from equipment donations to specialized training to help build Ghana's efforts (2013).

Similarly, the Serious Organised Crime Agency (SOCA), now NCA in the UK, in the past have donated various pieces of sophisticated forensic equipment to the EFCC in the past (EFCC, 2013). SOCA was one of the bodies engaged to help gather evidence against former Delta State governor, James Ibori. They continue to work with the EFCC to pass on information about Nigerian politicians who launder money through the UK).

Justice For All

The U.K. Department for International Development partnered with Nigeria in a program called "Justice for All," which is aimed at increasing accountability for Nigeria's public officers (Justice For All, 2011).

The Offshore Financial Centres (OFCs) are characterized as authorities and areas that attract a high level of non-resident financial activity. The movement of capital has been supported by a number of countries that use their autonomy and law-making powers to create an environment advantageous to anti-social practices by large organizations and the political elite. Otusanya et.al. (2012a, b) and others argue that mobility of capital has been promoted by a number of advanced countries and

micro-states that use their sovereignty and law-making powers to create an environment conducive to anti-social practices by the major corporations and the political elite. As much as 12 percent of Nigeria's annual gross domestic product is lost to illegitimate financial outflows (Oxfam, 2015).

The prevalence of Nigerians within the recently exposed Panama Papers may be no coincidence (ICIJ, 2016; Onyewuchi, 2016; The Cable, 2016). The leaked files exposed the offshore holdings of 140 politicians and public officials from around the world. Research by anti-corruption groups indicates that Nigeria loses more money from unlawful activity, including corporate tax abuse, than any other African country. This breaks the code stipulated by the procurement Act in Nigeria, where public officers are required to declare their assets and those of their families immediately after taking office, at the end of every four years in office, and at the end of their terms.

The Panama Papers disclosures increased calls for reforms in Britain's offshore possessions after it was revealed that more than half of the 210,000 companies exposed were registered in the British Virgin Islands. The United States is also a major area of concern when it comes to tax evasion and money laundering, in states such as Delaware, Nevada and Wyoming, which have been criticized for allowing corporations to be formed inexpensively and secretively. After enormous pressures over the past years, tax haven countries like Switzerland have recently lifted the veil on anonymity of secret banks accounts held by

individuals, who sometimes include high profile government officials from overseas countries like Nigeria. New laws in Switzerland have made the seizure and repatriation of the funds held in the country's banks by foreign officials. In 2017, the Swiss government announced it was to return £321 million to Nigeria that was seized from the family of the former president Sani Abacha. Abacha alone, it was believed, stole over £4 billion during his time in office. The restitution process started in 2016, where the terms were agreed under the control of the World Bank. The foreign minister insisted that such monitoring was necessary as a 'legal demand' in order for the funds to be properly returned to Nigeria and used to support social programme for the Nigerian people. Nigeria is also pursuing £480 million that has been seized in the US, but faces a laborious process to reclaim it (Bradley, 2016; UNODC, 2012; Worldbank, 2017).

The framework of international donors discussed in this chapter would suggest that both countries are well placed for funds to use to fight Fraud. *But the relationship they have with the government at any point in time is key as this may* have an effect on the delivery of their anticorruption activities if they do not have the support of the government.

The proper management of public finances is critical for ensuring trust in the global business environment consequently making the process of accessing international funds less difficult. Donors like the European Union Development Fund have been known to impose tight budget

monitoring restrictions on the countries to make sure objectives are achieved and money is spent in accordance with the terms of the grants (EDF 2014, p29:34).

The next section discusses the efforts of the agencies, highlighting their successes and challenges over the past years.

THE COUNTER FRAUD AGENCIES' EFFORTS TOWARDS FIGHTING OCCUPATIONAL FRAUD

This section outlines the efforts of the agencies fighting Occupational Fraud in both countries. Then it goes on to discuss the context of their efforts; describing their current activities and highlighting successes and failures over the past years to present.

THE GHANAIAN CONTEXT

The main agencies fighting Occupational Fraud in Ghana:

CHRAJ

The Commission on Human Rights and Administrative Justice (CHRAJ) serves as an Anti-Corruption Agency. Its anti-corruption powers stem from Articles 218(a) & (e); 284-288 of Ghana's 1992 Constitution and Section 7 (1) (a), (e) & (f) of Act 456. The Commission investigates and works to prevent corruption. The Commission was assigned to investigate abuse of power and "all instances of alleged or suspected corruption and the misappropriation of public monies by officials" [Article 218 (e)]. The Commission investigates allegations of Conflict of Interest under Chapter 24 of the 1992 Constitution. The 1992 Constitution provided for the establishment of a Commission on Human Rights and Administrative Justice (CHRAJ). Among other things, the Commission is charged with investigating all instances of alleged and suspected corruption and the misappropriation of public funds by officials. The Commission is also authorized to take appropriate steps,

including providing reports to the Attorney General and the Auditor-General, in response to such investigations. The Commission has a mandate to prosecute alleged offenders when there is sufficient evidence to initiate legal actions. The Commission, however, is under-resourced and few prosecutions have been made since its inception.

CHRAJ receives majority of its budget from the government. The last report on its budget was in 2010 (CHRAJ, 2010), which stated that the agency received Gh¢7.5million (£1,313,763.85) from the government. It was reported that Danida, its second largest donor, also gave Gh¢1.5million to the agency that same year.

The commission is made up of a commissioner who is otherwise known as the Chairperson; two deputies. They make up the governing body of the Commission. Departmental Directors were also employed to support the commissioners and have responsibility over the various departments of the Commission. CHRAJ has ten regional offices that coordinate the Commission's work in ten regions of Ghana. Its scope of services also expands with two sub-regional and one hundred District Offices across the country in order to support the needs of every individual.

EOCO

The second main counter fraud agency in Ghana, the Economic and Organised Crime Office (EOCO) was established by an act of Parliament, Act 2010, 804 as a specialized agency to monitor and investigate economic and organized crime and on the authority of the

Attorney-General prosecute these offences to recover the proceeds of crime and provide for related matters. The SFO (Serious Fraud Office) was replaced by the EOCO to tackle duplication and independence concerns. In August 2010, parliament passed the Organized Crime bill which seeks to establish a comprehensive legal framework to monitor, investigate and facilitate the prosecution of organised crime; EOCO was created. Among other things, EOCO is also directed to recover the proceeds of crime; monitor the activities connected with the offences to detect correlative crimes; take reasonable measures necessary to prevent the commission of crimes specified and any correlative offences. As an Anti-Corruption Agency, the Commission investigates allegations of corruption and conflict of interest, abuse of power/office, and misuse of public monies in the public service; it also investigates disclosures of impropriety under the Whistleblowers Act and complaints of victimization of whistleblowers in both the public and private sectors; it Investigates allegations of non-compliance with the Code of Conduct for Public Officials and failure to uphold work discipline, professional ethics and other ethical requirements of public office; and carries out various education and training exercises to maintain high ethical standards in the public service.

The Commission has power to, require an institution or person to submit information, documents, records or other materials that will assist in the Commission's investigations; also, to demand for any institution or person to appear before the Commission to assist in its investigations. It also has the power to take cases to court to seek remedies, including

compliance with its recommendations. However, the Commission does not have power to investigate any matter pending in a court or judiciary tribunal; also, matters between the Government of Ghana and another Government or International Organization; matters where the President exercises his or her prerogative of mercy (such as the grant of a pardon to a convict). The commission considers complaint about issues that demonstrate a public institution or a public official has engaged in a corrupt practice, or acted in a way that amounts to the corrupt use of public office, misappropriated public money, put himself or herself in a conflict of interest situation, breached the Code of Conduct for Public Officials or acted in a manner that offends public service ethics.

The Financial Intelligence Centre

This centre was established in accordance with section 4 of the Anti-Money Laundering Act, 2008 (Act 749) as amended. It is within its power of jurisdiction to request for, analyse, interpret and disseminate financial intelligence in Ghana and abroad.

The Ghana Anti-Corruption Coalition (GACC)

Is a unique cross-sectorial grouping of public, private and civil society organizations (CSOs) with a focus on promoting good governance and on fighting corruption in Ghana. It was registered on March 13, 2001 under the company's code.

Public Interest and Accountability Committee (PIAC)

Is a statutory Institution setup to ensure efficient, transparent and accountable management of petroleum revenues and investments to secure the greatest social and economic benefit for the people of Ghana through active engagement with its government and citizens. They accomplished this, by maintaining a balanced stance, exhibiting high integrity and remaining independent of any influences.

All, together these agencies use various laws to exert their powers. Some of the laws used, pertaining to occupational fraud are discussed in the following section.

The Ghanaian anti-corruption law is mainly encompassed in the Criminal Code, which was setup to criminalize any form of bribery, extortion, wilful exploitation of public office, use of public office for private gain and bribery of foreign public officials.

The Public Procurement Act 2003 (PPA)

This Act was established to standardize the many public procurement guidelines used in the country and to bring public procurement into conformity with World Trade Organization standards, the Public Procurement law was passed. The new law aims to improve accountability, value for money, transparency and efficiency in the use of public resources. The PPA developed a procurement monitoring and

evaluation tool, called the Public Procurement Model of Excellence (PPME), which is used by the PPA to collect data and to assess the level of compliance and performance of Ghana's procurement entities. The PPA claims that corrupt practices have significantly reduced following the implementation of the Public Procurement Act 2003 because of its potential for disciplinary measures, a view which is shared by the OECD DAC Committee and the Auditor General reports (Business Anti-Corruption portal, 2010).

Gyampo (2016) five-year review of the management of oil revenues since Ghana commenced oil production in 2010, concluded that some progress in the transparent and accountable use of oil revenues has been achieved, but more could be accomplished if certain bills such as the amendment to the Public Procurement Amendment Bill 2003 was passed. Analysis was done on various reports from the Petroleum Transparency and Accountability Index, official records from key state agencies. Interviews with core individuals within the petroleum sector were also carried out to review the quality of transparency and accountability.

A recent report by the World Bank suggests that only 37 % of government purchases were subjected to competitive biddings and refers to widespread abuses in public contracting, especially at the local level (Freedom House, 2010; World Bank, 2006). But, the World Bank (2006) praised Ghana for strengthening its public procurement system with its Public Procurement Act 2003, making it one of the most

comprehensive in the developing world. The law requires contract awarding to be tendered and conducted by tendering award committees and review boards within government ministries and agencies. However, Global Integrity (2000) asserts that the legal framework prohibiting companies proven to have bribed in procurement process is not enforced in practice.

Its board and executives are selected by the executive arm of government which includes the President (PPA website, 2014). This has been criticised by the society as undermining its independence (Freedom House, 2010). The PPA also provides information on its website, on regulations, relevant laws, and publishes tenders. The PPA established a committee to receive and investigate complaints from individuals and companies as well as set up tender committees.

Financial Administration Act 2003 - Act 654

This Bill was setup to regulate the financial management of the public sector and stipulates the responsibilities of persons entrusted with financial management in the government i.e. The Controller and Accountant General, the deputies who will be responsible to the minister for the custody, safety and integrity of the Consolidated Fund and other Public funds under their care. The Bill also seeks to ensure the effective and efficient management of revenue, expenditure, assets, liabilities and the resources of the government. The definition of public office forms the basis of the Bill which states that Public office includes an office in a

corporation established entirely out of public funds or monies provided by Parliament. The Bill therefore encompasses fiscal management within the context of public office (FAA, 2003, p7).

The Internal Audit Agency Act

The Public Procurement Act, the Financial Administration Act and the Internal Audit Agency Act have been introduced to promote public sector accountability and to combat corruption. The government has a strong anti-corruption legal framework in place but faces challenges of enforcement. There is no law governing gifts and hospitality offered to civil servants, and facilitation payments are not defined in law.

Whistle Blower Act 2006 – Act 720

The government passed a “Whistle Blower” law in July 2006, intended to encourage Ghanaian citizens to volunteer information on corrupt practices to appropriate government agencies. In December 2006, CHRAJ issued guidelines on conflict of interest to public sector workers. As of February 2009, a Freedom of Information bill was still pending in Parliament.

On the face of it, the authoritative arrangements in place are enough to promote national integrity. But the reality is different. The actual ability of

the legal, constitutional, and political directives to promote national integrity and the control of corruption is destabilized severely by many factors. The next section discusses the extent of the work agencies', their successes, and the challenges encountered when trying to prosecute individuals. Many have criticised their effort to date. Some discussions around the reason for this is also highlighted in the forthcoming paragraphs.

The government in Ghana has taken various steps to amend laws on public financial administration and public procurement. It has a strong anti-corruption legal framework in place. In most cases, the agencies on the government for direction; this is usually the Attorney-General or Department of Public Prosecution (DPP) office for permission to prosecute and this helps confirm that, whatever, the 'independent' status the agencies are said to have, they can be subject to political control of prosecution decisions.

Autonomy issues

In Ghana, the counter fraud organizations are mainly funded by the government and some reliance on donor support. They therefore lack complete operational and financial independence; this is the case on the part of Parliament and the Judiciary and when you scrutinize the executive powers of President (parliamentary powers) and his dominance over the institutions. There have been several evidences in the past where the President has exercised his extensive powers over

these agencies where he appoints committees to independently review fraud allegations. CHRAJ also depends on the Attorney General for prosecution. The AG has a politically biased position and operates clearly from the point of view of the government.

The obligatory boundaries between key counter fraud bodies such as CHRAJ and Auditor General are not fully clear, especially in terms of who takes primary responsibility for public officer's asset declaration; despite frequent and sometimes credible media allegations and occasionally proven allegations of fraud in high places, there has never been very few instances of prosecution or punishment of a high-profile individual.

The CHRAJ commission has reported being largely reliant on the Danish International Development Agency (DANIDA) for support to run most of its programmes. In 2015, DANIDA supported the commission with GH7.5 million to complement the central governments' allocation of GH1.5 million.

The counter fraud agencies' efforts in Ghana

The reporting of crimes by the agencies have not been consistent. CHRAJ in 2010, reported 38 corruption crimes from all the regions in Ghana; this was out of the 12,900 cases it dealt with that year. According to that report, corruption crimes had reduced considerably since 2006, when 386 were reported. In 2011, CHRAJ reported that out of 21 complaints relating to Abuse of Office, misappropriation of money fraud and conflict of interest, 13 were closed. However, according to the report

these closed cases were either cases that had been declined due to lack of mandate, where some were referred to other institutions such as the courts, Department of Social Welfare, Ghana Police Service, Labour Commission, and Rent Office for redress. Sometimes cases were classed as closed because they had been discontinued Under Section 13 of the CHRAJ Acts, 1993; where in the course of the investigation it appears that under the law or existing administrative practice there are inadequate grounds for the complaints. Other closed cases were those that were actually resolved by the commission. But their reports gave no breakdown on the proportions that fell into each categories described above. No further reports were released after that date by the commission.

Mrs Appiah-Oppong claimed that EOCO has Investigated 186 cases in 2015, and out of the number, 46 of those cases are being prosecuted and had recovered an amount of GHC 2,419,443.72 to the state as at mid-year 2015 (Newsghana, 2016). This report by the EOCO did not disclose if that was equal the proportion of assets that were stolen.

Critic of counter fraud agencies' efforts in Ghana

Although the reputation of the counter fraud agencies has been marred for being corrupt and their independence questioned; there are no empirical data available to date to prove its independence and efficiency.

Asibuo (2000) assert that CHRAJ will not be effective until laws of libel, sedition, the Official Secrets Acts are abolished; and the

Freedom of Information Act enacted. If Sections 15 (3) and 16 of Act 456 were amended, then this would enable CHRAJ to obtain secret official information without any impediment. This will consequently facilitate speedy resolution of cases. Several public officials have been known to hide behind the Oaths of Secrecy. Inadequate financial and human resources have been blamed for the inefficiencies of the agencies Asibuo (2000).

The EOCO building burnt down in Dec 2013 amid rumour that this was a suspicious incident to destroy evidences for prominent cases that were pending. Sadly, EOCO, established to fight corruption and fraud have been mired in controversy themselves. In 2014, EOCO was accused publically for using monies from seized accounts. But EOCO denied misusing funds from accounts of individuals and organizations it is investigating, it however admitted it previously engaged in this practice when government subventions delayed. During an interrogation exercise, at a Public Accounts Committee (PAC) sitting, it was disclosed that EOCO had used funds from accounts seized from people it is investigating to run the organisation. This was during a cross-examination of the Auditor General's report on state owned boards and cooperation's between 2010 and 2011. Alex Afenyo Markin, the Member of Parliament for Effutu (MP), also accused EOCO of operating not only inefficiently but illegally and threatened to take the office to the Supreme Court. As at October 2016, the EOCO had still not retrieved all the monies the court had ruled was illegally got by Woyome, the business man (citifmonline, 2016).

However, the Executive Director of EOCO, Mortey Akpadzi, denied the allegations (citifmonline, 2014) saying,

” the practice is not happening under his watch. He recalled that since EOCO was set up in 2010, “nothing like that has happened and will ever happen at least, under my watch because by law, it’s illegal to touch exhibits.”

Mr. Akpadzi however admitted that the practice used to exist before he took over explaining that such funds may have been tampered with when grants expected for EOCO from the government were delayed, then seized funds were used for subvention elsewhere and then replenished when the grants were received. He confirmed that it was against the law but they have never, and will never use any seized funds under any circumstances while he was in office. He gave the assurance however that the practice will not happen again and that institutional measures to prevent it have been put in place.

THE NIGERIAN CONTEXT

Nigerians are corrupt; not because they are “different fundamentally from any other people in the world” but “because the system under which they live today makes corruption easy and profitable; they will cease to be corrupt when corruption is made difficult and inconvenient” (Chinua Achebe, 1984).

Achibe’s quote reaffirms the frustrations of many Nigerians that seek a stable environment for such a rich country, knowing that the problem is not because the country lacks adequate laws and structures but beyond. This section aims to give an overview of the public entities and regulatory framework that have been established by the Nigerian government to tackle occupational fraud.

The main agencies fighting Occupational Fraud in Nigeria are:

Independent Corrupt Practices Act 2000

The Corrupt Practices and Other Related Offences Act of 2000 established an Independent Corrupt Practices and Other Related Offences Commission (ICPC) to prosecute individuals, government officials, and businesses accused of corruption. Over 19 offenses are punishable under the Act, including accepting or giving bribes, fraudulent acquisition of property, and concealment of fraud. Nigerian law stipulates that giving and receiving bribes are criminal offenses and, as such, are not tax deductible. The bill prohibits and stipulates punishment for corrupt practices and other related offenses. It was set up to investigate

and prosecute offenders who had engaged in corrupt practices and other related offences. Provision was also made under this bill for the protection of anybody who gives information to the commission in respect of an offence committed or likely to be committed by any other person.

With respect to the prosecution of cases, the ICPC Act provides that every prosecution for offences under it shall be deemed to be done with the consent of the Attorney-General. Furthermore, it is provided that the Chief Judge of a State or the Federal Capital Territory shall designate a court or judge to hear and determine all cases arising under the Act. Presently, there are two such designated Judges in each State of the Federation and the Federal Capital Territory.

Economic and Financial Crimes Commission (EFCC) Act, 2004

EFCC
MOTO

To rid Nigeria of Economic and Financial Crimes and to effectively coordinate the domestic effort of the global fight against money laundering and terrorists financing.

The Economic and Financial Crime Commission (EFCC) was created in 2004 and made responsible for investigating, arresting and charging any offenders with corrupt practices either economic or financial crimes in Nigeria to courts. Its duties are substantively laid out in the Economic and Financial Crime Commission Act, 2004.

The EFCC currently stands as the nations' central agency for investigating fraudulent crimes. Its mandate is to curb corruption, protect national and foreign investments in the country, identify and confiscate illegally obtained wealth and contribute to the global war against financial crimes.

Nigerian Financial Intelligence Unit (NFIU)

Nigerian Financial Intelligence Unit (NFIU) in fulfilment of the requirement by FATF, was established in June 2004 by the then president Olusegun Obasanjo. It is the law enforcement arm of the EFCC and derives its powers from the EFCC (Establishment) Act of 2004 and the Money Laundering (Prohibition) Act of 2004 (2011). It has three central roles which are receiving, analysis of financial intelligence and dissemination of intelligence to nominated users. The NFIU draws its responsibilities directly from the 40+9 Special Recommendations of the Financial Action Task Force (FATF), the global coordinating body for Anti Money Laundering and other criminal activities such as the financing of Terrorism. It is a division of the Organization for Economic Cooperation and Development (OECD). The OECD as a wholly functioning organisation, creates a platform where governments can compare policy experiences, seek answers to common problems, identify good practice and coordinate domestic and international policies. FATF was created in 1989 to help address global concerns over

the increase of money laundering reports and the incidences of fraud in Nigeria which had been particularly high in Nigeria over the past years.

The NFIU is a member of Egmont Group of Financial Intelligence Units and the coordinating FIU in West African Sub-Region. It supports the Intergovernmental Action Group against Money Laundering in West Africa (GIABA), in the enforcement of AML/CFT regime. NFIU is broadly segmented into the Legal/ Research and Cooperation, Strategic Analysis, Monitoring and Analysis, ICT and Administration and is headed by a Director who is the chief accounting officer assisted by heads of Units.

The GIABA is an example of such partnerships, whose core functions includes reviewing and supporting the enactment of the ML/CFT Legislation, providing technical assistance to stakeholders in member states including judges and members of the West African Bar Association, as well as conducting research. Through its training mandate, GIABA has offered support to the Nigerian judiciary in addressing infrastructural deficits such as those that have led to tardy adjudication of cases; apparent mostly with cases pertaining to Politically Exposed Persons(PEPS). Issues such as these, is described as the abuse of procedural provision and other matters relevant to the effective functioning of the judiciary. Consequently, their work often focuses on developing programs and projects to support the Nigerian judiciary, with regards to strengthening its integrity and modernisation of court proceedings to meet international standards. In the past, the GIABA

have expressed concern over parts of the AML/CFT legislation law and been one of the main drivers for change (GIABA, 2012). Some of the areas cited included the low level of ML/TF convictions in Nigeria Terms of punishments which was said to be confusing in terms of applicable punishment and interpretation; the prevention bill did not sufficiently cover acts committed outside Nigeria by its citizens. An action plan was drawn. As a result of their prodding, there have been significant progress and amendments to various laws.

So far, it is clear that Nigeria has a strong anti-corruption and fraud framework in place. The next section analyses the legal scope for the agencies mentioned earlier. Since 1966 the various laws have also been enacted to strengthen the system and criminalize corrupt and fraudulent conducts. Below are a list of selected few and not a definitive list of all the laws concerning fraud:

Criminal Justice 7 (Miscellaneous provision) Decree in 1966

The Nigerian Code of conduct 1979

Recovery of Public Property Act of 1984

Independence corrupt practices commission ICPC Act 2000/1

Money Laundering (Prohibition) Act 2004

Economic and Financial Crimes Commission (EFCC) Act, 2004

Fiscal Responsibility Act 2007

Public Procurement Act 2007

This section describes three of the Acts listed above because they are closely related to the discussions of cases in this research. The scope of the ICPC and EFCC Act have been discussed earlier in this chapter under the roles and scope of the agencies' work.

Recovery of Public Property Act of 1984

Part V of the EFCC Act 2004, in Nigeria provides for various considerations when it comes to forfeiture of assets derived from fraudulent activities that fall under this act. The Nigerian Criminal Code also makes provision for forfeiture "Where any person is convicted of an offence under sections 98,99,112,114,115,116,117,126, 128 or 494, the court may in addition to, or in lieu of, any penalty which may be imposed order the forfeiture to the State of any property which has passed in connection with the commission of the offence or if such property cannot be forfeited or cannot be found, of such sum as the court shall assess as the value of such property, and any property or sum so forfeited shall be dealt with in such manner as the Attorney-General may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner." Possession of instruments and materials for forgery; and corruption are some of the offences for which forfeiture is prescribed as a sentence under the Criminal Code.

Money Laundering (Prohibition) Act 2004

Between 1995 and 2011, Nigeria has witnessed four consecutive amendments to the Money Laundering Acts. The motivation behind was

the need to respond to international developments and pressures as well as a recognition of the fact that money laundering negatively impacts on the national economy. The scope of offences covered under this provision is very wide and substantially fulfils Nigeria's obligations under the UNCAC and AUCC.

Evidence from the literature suggests a very robust system is in place in Nigeria. Mechanisms and partnerships strong enough to guarantee the adequate oversight of the state budget and public expenses. However, despite these structures Nigeria's fraud and corruption levels remain high as its counter fraud agencies don't seem to be driving the occupational fraud occurrences down (Omotoye, 2011, Otusanya, 2011; Sowunmi, 2010; HRW, 2012).

Public procurement is a big part of what sustains government policies and goals in any country and therefore needs to be managed as transparently as possible. However, this is the largest area open to vulnerability in Nigeria. The OECD has supported its members such as the Nigerian government, with recognising their Public procurement is a crucial provision of service delivery. Over the years, they have drawn up many guidelines on how to mitigate risks to corruption and fraud in various procurement projects; guidance for risk governance.

Public Procurement Act 2007

The legal instruments used to fight corruption in Nigeria include the Criminal Code, Code of Conduct Bureau, the Recovery of Public

Property Act of 1984 and the newly formed commissions the Economic and Financial Crime Commission (EFCC) and the Independence corrupt practices commission (ICPC).

Prior to 1966, the Criminal Code was the primary source of law dealing with corruption in Nigeria. But due to the narrow nature in dealing with corruption such as only criminalizing the conduct of bribe-taking public servants leaving the private, it was replaced by Criminal Justice 7 (Miscellaneous provision) Decree in 1966. This however failed to stem the tide of corruption. The code of Conduct was thereafter formed in the 1979 Nigeria constitution where complaints on corrupt practices are referred to Code of Conduct Bureau Tribunal. The Bureau forbids public officers from simultaneously receiving remuneration of two public offices and from engaging in private practices while in the employment of government, the code bar public servants from accepting gifts or benefits in kind for themselves or any other person because anything done or omitted to be done in the discharge of their duties. It prohibits public officers from maintaining or operating foreign bank accounts.

Public officers are therefore required to declare their assets and those of their families immediately after taking office, at the end of every four years in office, and at the end of their terms. Due to the non-inclusion of the private sector which are also corrupt in all these laws, in year 2000, the Independent Corrupt Practices and other related Offences Act was distributed which eventually helped to create the ICPC and the EFCC.

The next section discusses the extent of the agencies' work, successes had, and the challenges encountered when trying to prosecute individuals. Many have criticised their effort to date. Some discussions around the reason for this is also highlighted in the forthcoming paragraphs.

The counter fraud agencies' efforts in tackling fraud cases in Nigeria

Since it was setup, the EFCC's success in convictions so far is summarized in table 4.2 below:

	<u>Convictions Secured by the EFCC</u>		
	<u>2011 – 2014</u>		
	Year	Cases filed in court	Convictions secured
Nuhu Ribadu	2003 to 2007	Unknown	56
Chief (Mrs) Farida Waziri	2008 to 2011	75	34
2011 - 2015 Lamorde	2011	417	67
	2012	502	87
	2013	485	117
	2014	388	126
	2015	1,792	397

4.2 Convictions secured by the EFCC. (Table developed with figures sourced from EFCC magazines: Landmark achievements in the fight against economic and financial crimes 2012 – 2015 and Waziri, 2009)

The table above illustrates the total number of cases reported to have been taken to court and successful convictions by the EFCC. It would seem that court cases and convictions have increased significantly since the EFCC was setup. After closer examination of their reports, it is clear

that it has been most successful in prosecuting other types of fraud which included internet scam operators, 419 scammers, romance fraud. Also, the reports show that the occupational fraud successfully prosecuted were committed by low to middle level staff. Only a handful of high profile convictions have taken place, such as a former governor of Bayelsa state, a former Inspector General of Police, and a former Chairman of the Board of the Nigerian Port Authority. However, many other cases languish in the courts without resolution.

In 2006, the EFCC had 31 of Nigeria's 36 state governors under investigation for corruption. This was during Ribadu's tenure as Chairman of the EFCC. Ribadu revealed that 56 convictions had been recorded on corruption, money laundering, oil pipeline vandalisms, and related offences (Ribadu, 2006a). One notable case during Ribadu's time in office was that of his boss, past Inspector-General of the Nigerian Police Force, Mr Tafa Balogun, who was convicted in 2005, jailed and made to return £150 million under a plea bargain (HRW, 2011; Prince, 2009). Furthermore, over \$5 billion of assets was reported to have been frozen and seized from corrupt officials and their agents during Ribadu's tenure. Ribadu claimed to have been offered several bribes to pervert the course of justice; amongst these was from a State governor who offered him \$15 million and a house abroad (BBC 2010, 2009, 2007; PBS News, 2009). He asserted that the bribes were taken and deposited into the Nigerian Central Bank as evidence. Though the allegations were denied by the governors involved, they were prosecuted. While fighting

the corruption that existed in the system his life was at risk as there were two assassination attempts. He subsequently fled to the UK in 2009. In 2003, the EFCC had estimated that 70 per cent of the oil earnings, roughly over \$14 billion was stolen and wasted and confirmed that majority of the perpetrators of fraud in Nigeria included senators, ministers, commissioners and individuals with high political connections.

Waziri' in her reign at the EFCC also made numerous efforts to rid the banking industry of fraud instances. Only 45% of the case filed in court during her tenure were successfully prosecuted. The Nigerian government recovered \$3.4billion (£1.9billion) of government funds over the first year of Yar'Adua's presidency since he demanded that the ministries return all unspent money in their budgets to the treasury. In his address to mark Nigeria's 48 years of independence, Umaru Yar'Adua said it was proof that his government had a zero-tolerance against corruption (BBC, 2008). Waziri on the other hand described many frustrations while trying to prosecute high profile individuals, such as, missing files. Her frustrations can be summarized in one press statement as follows:

"The extent of aggrandizement and gluttonous accumulation of wealth that I have observed suggests to me that some people are psychologically unsuitable for public office. We have observed people amassing public wealth to a point of madness or some form of obsessive or compulsive psychiatric disorder" (Waziri, 2009b).

In 2013, EFCC's Lamorde cited the *increase in the involvement of civil servants in the ongoing fraud investigations and prosecutions*

undertaken by the EFCC; and cited *budgetary constraints* as a challenge to prosecuting these crimes (EFCC, 2013, 2012). He pointed out that the commission's proposal of N21 billion against the N9.3 billion approved by the Budget Office of the Federation left a gap of N11.3 billion which impacted adversely on the operation of the agency. The EFCC's annual reports 2014, 2013, and 2011 reveal that about 90% of its budgets are spent on staff costs, leaving very little for other non - pay cost (Operational costs). *Concerns about their budgets* have also been expressed by others as a stumbling block when it comes to tackling crime (Jagaba, 2013).

The EFCC in 2013, reported to have charged 485 cases to court and recorded 117 convictions at the end of August 2013. In 2012, EFCC revealed that 117 convictions had been recorded, but nearly all involved low-scale thieves; the 419 scammers, the Yahoo scams and dubious bank officials. But when it comes to multi-billion naira fraudsters, the stolen resources have been deployed to delay justice, with minor injunctions frequenting the Supreme Court.

Lamorde gave explanations for why and how the "big thieves" evade conviction. He confirmed that Nigeria's biggest fraudsters were mostly ex-governors and politicians-well known for evading justice. They use their huge loots to lengthen cases filed against them; using clever barristers to find gaps in the processes. This often involves cases being passed from high courts to the Supreme Court, then to the court of Appeal. As Lamorde explained,

*“The truth is no case has been concluded,” “I don’t think it is correct to say that whether the charges framed are not properly done or the prosecution is not putting the case properly.” “We have example of a case we charge to court in 2006; for this very case, we have gone to the Supreme Court twice on just **interlocutory applications**. They will file this, the judge will overrule them, they will go to Court of Appeal and lose there but they will still go to the Supreme Court,” he added.*

When such cases are lost, he continued, the Supreme Court orders it be returned to the trial judge for continuation, then a fresh application will suddenly emerge anew. “They will come with another application and certainly for lawyers among us we know how long it takes for a trial to go to Court of Appeal and get listed, then go to the Supreme Court get it listed and decided upon. This is the fate of most of the cases we have in court,” he said.... Several cases, he added, involving top politicians, accused of stealing public funds, have lingered for years after various public displays in the media...the indicted officials are still roaming the country as lawmakers, and in political positions (Lamorde, 2012).

Consequently, sentencing when it comes to the sample of high profile cases have been few and far between inducing various public outcries on injustice. Only a hand full it seems, has reached the sentencing stage. The EFCC in the past has blamed the law courts for the delays and appealed for special anti-corruption courts to speed the process (Lamorde, 2012).

Indications from past reports on cases, show that the EFCC have tried to prove its cynics wrong; *by refusing to allow governors such as, Alao-Akala, Daniel and Doma to be arraigned in Abuja*, to prevent them from challenging the jurisdiction of the court because some former governors

arraigned in Abuja in the past, had challenged the court's jurisdiction and won.

Concerns about the EFCC's commitment and effectiveness, have continued. The acting Head of EFCC, Magu, in place confidently boasts about the EFCC achieving 164 convictions in 2016 alone; which include the "untouchables" such as top military officials, political dignitaries as well as judicial staff (Al Jazeera News, 2015).

Some success with forfeiture and asset recovery so far

"The first thing we aim to do now is that we try to recover and confiscate the assets of individuals that we are investigating because it is only when you deprive them of their resources that you will be able to force them to stand trial. But if they continue to have access to their resources and asset, they will use it to continue to delay and drag some of these trials" (Lamorde, 2012).

The UK's Financial Services Authority and several of Britain's leading banks were targeted in 2010 in a lawsuit filed by the Nigerian government seeking to recover millions in deposits by the British banks. Nigeria alleged that the banks accepted the deposits from corrupt Nigerian governors without adequate investigation, suggesting that the banks were therefore complicit in the governors' corrupt activities (BBC Online, 2016; Daily Mail Reporter, 2010).

The commission's primary goal is for forfeitures and the assets of the accused to be frozen, to avoid further public resources being used to prolong the cases (Lamorde, 2012). In 2013, the EFCC recorded that it recovered N6.5 Billion, \$19Million, €520 million Euros and £19 Billion Pounds Sterling. Their efforts Intensified, focusing more on the prosecution of politically exposed persons, failed bank executives, beneficiaries of fraudulent oil subsidy payments and senior civil servants involved in pension fraud (EFCC Report, 2013). The U.S. Department of Justice, have also collected over \$1.7 billion in penalties from international companies linked to fraud in Nigeria (RopeGray, 2012).

Critics of the counter fraud agencies in Nigeria

Osinbajo, the vice president of Nigeria, recently lamented on the state of corruption in Nigeria adding that,

“Nigeria stands the risk of perpetually remaining under-developed if nothing is done to stem the tide of corruption” (EFCC, 2016).

Lack of confidence in the EFCC to effectively combat government corruption is not without good reason. A report on Human Rights Practices in Nigeria compiled by the United States Bureau of Democracy, Human Rights and Labour, on Economic and Financial Crimes Commission (EFCC), the report stated that officials of the anti-corruption agency *reportedly singled out political opponents of the governing party in their arrest and detention of state, local, and federal*

government officials on corruption charges during the year (Human Rights Watch, 2012). It examined the achievements of the EFCC, and found that since the inception of the commission in 2002, only four senior *politicians have been successfully charged*, each of whom received little or no jail time. The report details a series of cases where despite strong indications that certain politicians were involved in corruption, they were never prosecuted by the EFCC. The report also found the ability of the EFCC to *bring people to justice was hampered by extensive political interference in the judiciary, judicial inefficiency and deliberate delays*. HRW (2012) claimed that despite the legislation, ICPC and EFCC's investigations have resulted in less than fifteen convictions since 2001; that although the EFCC's was established to prosecute individuals involved in financial crimes and other acts of economic "sabotage", It has been most successful in prosecuting low-level internet scam operators; acknowledging that some high-profile convictions had taken place. It highlighted how many other high-profile cases lay low in the courts without resolution for many years.

Evidently, the EFCC'S has attempted over the years to fight corruption with the arrest and successful prosecution of many such as, Chief Dieprieve Alamesieya, the Former Inspector General of police (Tafa Balogun - found guilty of 8-count charge related to corruption Jolly Nyame, former Taraba State governor, Orji Uzor Kalu, former Abia State governor, Saminu Turaki, former Jigawa State governor, Chief Joshua Dariye, a former governor of Plateau State, are currently facing trial for fraud (Ribadu, 2006; Soniyi et al., 2008). However, in 2008, a Federal

High Court in Enugu sentenced Ibori (ex-governor) to six months in prison with the option of a N3.5 million fine. The 191 charges were dropped. The EFCC also entered a controversial plea bargain agreement which also required that Ibori return N500 million and three of the houses he acquired with stolen public funds to the Federal Government. But in 2010, the EFCC filed new claims that Ibori had embezzled \$250 million. He fled to Dubai where he was later arrested and extradited to the UK to face other charges (BBC News, 2012).

Various reports confirm ongoing prosecutions brought by the EFCC's of 12 former state governors, eight had already "been dragged out for more than three years" with some lasting "more than four years without a single witness being called at trial". Some cases dating as far back as 2005, remain unresolved, with some of the indicted officials still occupying key government positions or rewarded with lateral transfers to elsewhere in Government. Administrative sanctions, dismissals and prosecutions appear to be rare and poorly publicized throughout the Executive levels (Nnochiri, 2016; Kwon, 2016; Premium Times, 2012). However, the present chairman of the EFCC insists this does not relate to the EFCC of today but confirms the stand point of the EFCC as a non-politicized organization (Al Jazeera News Online, 2016).

By law, allegations of corruption against senior level politicians and/or civil servants of any level are investigated by what should be independent bodies; the EFCC or ICPS. The two bodies are often *accused of not acting on all allegations*. Despite the two bodies having

online and/or offline mechanisms to receive complaints from the public, cases were not always immediately acted upon. Consequently, the response time span up to several months, as was the case with the investigation of the wife of the Senate President Bukola Saraki, who was summoned by the EFCC six months after a case had been submitted. Also, the auditor general reported on alleged missing oil revenue in the amount of US\$20 billion, but no follow up action was taken by either the ICPC or the EFCC until the change in administration in May 2015. Since then, the EFCC has made numerous arrests for corruption charges which include several past governors, aides of former President Jonathan and wives of senior politicians.

Altogether, the number of such high-profile investigations was quite low considering the scale of corruption reported in the media and by activists in the country. Critics *accused the government of lacking the political will to go after top offenders and those believed to be friends of the administration* (Eke and Tonwe, 2016). For example, an independent audit report commissioned by the government, over an allegation of \$20 billion in missing oil money, was not acted upon. No official was sanctioned or prosecuted despite the report confirming that indeed oil revenues - though lower than initially alleged - had been diverted.

The EFCC have always been at the centre of political storms where many still argue that the EFCC is *used as a political tool to target individuals* in the opposition parties. (Kwon, 2016; BBC News Online

2010, 2007); and that the EFCC *expect prosecutions per their intentions*, consequently making the judges job to follow the rule of law difficult.

“A judge would decide according to law and not according to the noise in the market place, not justice according to your intention but justice to according to the law, the Constitution and based on the counts before the court and also the evidence adduced. Justice cannot be in isolation; it cannot be in a vacuum” (Olanipekun, 2016).

Victor Kwon, The PDP, in a statement signed by its National Legal Adviser, said there could be no clearer indication that the APC-led administration was on a manhunt against PDP leaders, and that it had a personal grudge against Mr. Metuh, ostensibly for his stance as opposition spokesperson, particularly his recent exchange with the government and the APC over their dictatorial activities. “The release of Jafaru Isa, a known associate of the President and chieftain of the APC eight hours after his arrest while our spokesman remains in detention even when the two are being investigated over the same allegation clearly shows that the President Buhari-led APC government is not fighting corruption but using the much hyped crusade as a cover to persecute PDP leaders and decimate the opposition, a project the EFCC has clearly yielded itself as a willing tool” (Kwon - Premium Times, 2016b).

Further to this, despite claims that a plethora of evidences links the former president Obasanjo to the criminal diversion of several public funds, the government and the anti-graft agencies have done very little to arrest him so far. For instance, the \$2.1billion arms scandal reported

in the press in January 2016, involving Nigeria's former national security adviser who pleaded innocent to embezzling \$2.1 billion that was meant to purchase arms to fight Boko Haram. Statements received from all those implicated, as confirmed by EFCC reports online, asserts that some of the money were diverted on the then-president's (Obasanjo) order to try to get himself re-elected. According to Odili (2016), the National Chairman for The Campaign for Democracy.

“...when a name of a person is mentioned as conspirator, connivance in connection to a criminal case, such person will be arrested or invited for interrogation. For the EFCC to continue to keep people in detention and prisons, flouting court orders, while the major culprit is allowed to move freely is an act of timidity, cowardice and unwillingness to carry its primary national assignment to the letter. It confirms the rumour ... that Buhari had an agreement with Jonathan that he will not probe his government if he Jonathan relinquished power in a free and fair presidential contest” (Odili, 2016).

But Magu, the EFCC Chairman claims that the ex-president had not yet been arrested because no document had been traced to Jonathan giving any approval for the disbursement of the money for any purpose other than arms purchase (Daniel et.al. 2016).

Similarly, many expressed dissatisfaction about the EFCC's hesitation to fully investigate and prosecute the ex- President Jonathan's wife, Patience, after she was stopped at Nigeria's international airport attempting to leave the country with approximately \$13 million in cash in 2006; and also question her links to other fraudulent activities (BBC, 2016; Vanguard 2017, 2016 a, b ; Ropesgray, 2012). Jonathan was a

state governor at the time. Following the incident, the EFCC announced that it had impounded the money, but after waiting four years for follow up on the seizure, Nigerians concluded that the EFCC did not intend to pursue a case against the First Lady (Sahara Reporters, 2011). Back in 2011, in response to the revived interest in the case, the EFCC's past chairwoman, Mrs. Farida Waziri, who did not lead the EFCC in 2006 when the allegations first arose, publicly stated that she had reviewed the Commission's records and concluded she could not make out a successful case of money laundering against Mrs. Jonathan (247ureports, 2011; Onwuemenyi, 2011; Ropesgray, 2012).

The Nigerian government has always asserted that they are committed to curbing fraud. Nevertheless, the counter fraud agencies are often reported to have compromised their positions. Most high-profile fraud cases have remained inconclusive. For instance, between 2003 and 2011, the Economic and Financial Crimes Commission (EFCC) reported to have prosecuted only 35 high-level political figures for corruption. But executive interference, a weak and overburdened judiciary, and the commission's lack of capacity and resources led to a very small number of convictions (Human Rights Watch 2012). The commission has also failed to prosecute several other senior politicians despite evidence of their involvement in corrupt and fraudulent deals (Human Rights Watch 2012). Experts point to a noticeable sluggishness in the way various established anti-corruption institutions carry out their mandates, which are enshrined in the various acts and provisions of the 1999 constitution. These institutions include the Economic and Financial Crimes

Commission (EFCC), the Independent Corrupt Practices and other related offences Commission (ICPC) and the Bureau of Code of Conduct Bureau (CCB). Likewise, the judiciary and state courts are particularly vulnerable to political pressure and interference. The executive arm is responsible for the appointment and promotion of state judges as well as the allocation of resources. As a result, governors can punish or reward state courts and judges depending on whether their decisions are in favour or against the government and its cronies. There is also evidence that governors have offered gifts such as expensive cars in exchange for favourable judgments (Freedom House 2010).

Maduegbuna (2005) *argues that the benefits of corruption in Nigeria are far greater than the consequences of being caught and disciplined.* The high incidence of poverty, which the National Bureau of Statistics (2005) puts at 54.1%, has contributed in no small amount to the desperation of Nigerians to acquire wealth (Sowunmi et.al.).

Outspoken Ribadu critic, Keyamo (2011), who led several EFCC prosecutions as an outside counsel, under Waziri, told Human Rights Watch: Much of what has been said about Ribadu's tenure at the EFCC has been generally based on perception rather than reality. He praised Ribadu for his strategies in bringing suspects to court, however he expressed dissatisfaction with reports of suspects who were inhumanely managed; handcuffed and sometimes dragged on the floor during arrest. Keyamo (2011) claimed Ribadu had no record to back up the success of his campaign.

“I have learned that Nigerian problems need Nigerian solutions. I have found that Nigerians know how to find the answers to their own problems, when they are determined” (Marie - Nelly, World Bank president 2011 – 2015)

Discussion

The literature suggests that independent anti-corruption commissions or agencies may *not be the panacea to the scourge of occupational fraud and abuse as there are very few examples of success despite major increase in laws and legislations on anti-corruption in these West African countries due to the lack of substantial funding and political will. Instead they are perceived as partisan when it comes to tackling crime* (UNDP 2010, 2009 and 2005; Quah, 2009a, b).

Having examined the backdrop in both countries in the previous chapters, the next chapter describes the approach used to achieve the aim of this research. The framework used to assess the cases in both countries are discussed; highlighting ethical considerations and evidence of a systematic approach to gathering, assimilating and analysing the data.

CHAPTER 5

METHODOLOGY

Introduction

This chapter outlines the empirical research methods used in the preparation of this thesis; providing a justification for the decisions made in the design, steps employed in the delivery of this research.

It begins with discussions around the research paradigm (Guba, 1990; Kuhn, 1962); which includes epistemology, theoretical framework and justification for the methodological approach adopted. It highlights the effectiveness of approaches used during the study process, with illustrations of challenging occurrences as well as successful processes. The key ethical considerations underpinning this research are then outlined with discussions around how challenges were mitigated. The limitations of this study are discussed at the end of the chapter.

A constructivist/interpretivist paradigm has been adopted for this study whereby the researcher believes that there is no single reality or truth, and therefore reality needs to be interpreted, a qualitative methodology was used to get those multiple realities. Various methods such as in-depth interviews, observations were adopted to collate data. Questionnaires were distributed here it was difficult to get hold of respondents directly; such was the case in Ghana where questionnaires

and interviews were employed for this study. The interviews therefore corroborate the findings in the Ghanaian cases reviewed.

This research seeks to contribute to existing occupational fraud scholarships by giving an insight into the effectiveness of anti-fraud and corruption agencies within Ghana and Nigeria; its uses the Elite and consequences of culture theories to explain the challenges faced by these organisations. It compares the manifestations of occupational fraud in these two different socio-cultural settings and the relative effectiveness of legal remedies that support the mandates of these agencies.

The Research Design

This research adopted a multiple case study design within a qualitative approach, drawing on both primary and secondary data. Cases that had gone through the court system or had been reviewed for prosecution. These cases were purposefully selected from a large sample in both countries. Out of 175 in Ghana and 295 cases in Nigeria, this study examined 25 cases in-depth in both countries. Table 5.1 depicts this.

	Ghana	Nigeria
<i>Number of case sample</i>	175	295
<i>Chosen Sample size</i>	25	25

Table 5.1 Summary of sample of cases examined for this study

First, the selection was narrowed down based on the amounts stolen, agencies and Individuals involved and their position in office. This first selection was made up of both unknown individuals in middle and low-level positions who had committed fraud in public offices; and high-profile individuals, who were publicly known i.e. highly placed or connected in the society. The cases involving high profile individuals received a lot of media attention; so, a lot of the details about the individuals involved and progress of the cases were online. I used some information from reliable internet sources. Preliminary review of the cases listed in the reports of the agency (my starting point), revealed inconsistencies in the reporting of convictions; demographic data as well as case summaries were missing or scantily reported. This was more apparent in cases involving low profile individuals. Faced with this challenge a decision was made to therefore focus on high profile cases where I was likely to gather more case data. The challenges faced will be discussed later within the limitations section of this study.

The selection was finally narrowed down on the basis of the amounts involved and the classification of individuals as high- profile individuals. This study was coordinated to ensure the comparability of research responses and processes as Crompton and Birkelund (2000) suggests.

Method selection: A qualitative design

This qualitative research approach was based on an interpretivist position as described earlier. This entailed analysing fraud cases that had gone through the court system. It took a holistic approach, which attempted to capture the contexts within which various stakeholders' experiences occur and thus concerned with learning from cases. This research seeks to explore perceptions and meanings to understand, describe and explain social processes from the perspective of the study's participants. This approach did not commence with any prior hypothesis to be tested or proved, but rather with a focus of inquiry that takes the researcher on a voyage of discovery as it takes an inductive approach to data analysis. The research outcomes should not be viewed as broad generalisations but contextual findings – as its focus is more about “transferability (from context to context) rather than generalizability. The focal point of the study was to get a picture of the perpetrators of the crime as well as the effectiveness of the crime agencies.

A Triangulation strategy was adopted for this study because it allows the researcher to support the results relative to each country with different data collection methods; Cases analysis, questionnaires and Interviews. This was done to enhance internal and external validity. The use of the different and independent measuring instruments permits us to provide a precise “portrait” of the perpetrators within the context of their

environment. The interviews therefore corroborate the findings in the case study.

This study was coordinated to ensure the comparability of research responses and processes as per Crompton and Birkelund's (2000) suggestion.

Survey instruments used

The instruments for primary data collection were case analysis and in-depth interviews with key individuals i.e. prosecutors, defence lawyers, investigators, anti-graft agencies and the journalists in both countries to confirm themes derived from both primary and secondary data. 13 in Ghana; 13 in Nigeria. Respondents were recruited using a snowball approach. Each interview session lasted an average of 45 to 60 minutes. 20 questionnaires were also distributed to the staff at EOCO where some respondents could not be reached directly, with the authority of the Chairman of the agencies. Only 6 were filled out and handed back. Due to time constraints, I could not go back and ask for more. The essence of the interviews was to corroborate the findings in the case study.

Table 5.2 shows a summary of the respondents and the survey instruments that were used for this study.

Table 5.2 Summary of the respondents recruited for this study

TYPE	Number of respondents in GHANA	Number of respondents in NIGERIA
NGOS	10 Questionnaires were distributed; 5 received. 3 interviews were conducted.	The opinions of various NGOS were reviewed remotely via their internet websites.
Lawyers	4 Interviews were conducted with lawyers with past experiences of dealing with fraud cases.	13 Interviews were conducted with lawyers with past experiences of dealing with fraud cases.
Media	3 Interviews were conducted with fraud analysts from Ghana's prominent print media houses: 3 interviews were conducted with reporters from a radio station. Other print and broadcast media were reviewed.	6 major media selections were reviewed online: this included print and broadcast media.
Crime agency	20 Questionnaires were distributed; 6 were returned.	Though access was granted at the start of the research, time constraints did not allow for questionnaires to be distributed during the planned period. During my second visit, there was a change in the administration and that meant a new process of applying to gain access to staff; which was not feasible.

Table 5.2 Summary of the respondents and the survey instruments used for this study.

When ACFE (2012) presented its findings, it was based on 1,388 cases of occupational fraud that were reported by the Certified Fraud Examiners (CFEs) who investigated them. These offenses occurred in nearly 100 countries on six continents, offering readers a view into the global nature of occupational fraud. What is salient from the data gathered in their reports over the past years to date is perhaps how consistent the patterns of fraud are around the globe and over time. This

pattern was used to reaffirm the phenomena worldwide. However, the ranking in the ACFE study cannot be generalizable worldwide because the sizes of sample cases is based only on the ones that had been reported and examined by CFEs in the region.

The case sample size in this study is far less than that of the ACFE's report to the nation (2014, 2016) and Holtfreter's (2005), however, it is not limited to cases handled only by CFEs and eliminates potential biases by drawing from the experiences of lawyers involved in these cases, official criminal justice data as well as media reporters and Individuals from Non-Governmental Organisations (NGOs).

This research has similar components to the ACFE's 2012 report, but it goes into greater detail and focuses on only two countries in one continent. It is a comparative design, which will entail studying two contrasting countries using identical methods. However, with time constraints, limitations and challenges, it was difficult to create a picture-perfect situation where the processes, variables, ingredients are the same to work with. What I therefore learnt on this journey was to be flexible with my approach to collecting data and interviewing respondents. This included being flexible with the location and how interviews were carried out. I also had to adapt my time to cancelled appointments, weather and some scheduled appointments outside office hours.

Other empirical crime studies have used varied techniques such as surveys, archival research, experiments and case studies to gather their data. Omotoye (2011) used surveys polled from grassroots experiences and perceptions of people directly affected, thus suggesting evidence of originality and validity. Dada et al. (2013) studied the application of forensic accounting in the investigation and detection of cases of fraud, using all the staff of the EFCC and three of the major professional accounting firms in Nigeria for the period 1999 to 2010. Dada et al. (2013) used a multiple regression analysis technique with the aid of a Statistical Package for Social Sciences (SPSS) to assess the effect of forensic accounting in the investigation and detection of corruption in Nigeria. A correlation analysis was also carried out to confirm relationships. Iyiegbuniwe (1999) and Idolor (2010) carried out a study on frauds in Nigerian banks using a 10-year sample data set, collected from the Nigeria Deposit Insurance Corporation (NDIC) annual reports for his analysis. Sowunmi (2010) used questionnaires' involving a two-stage stratified random sampling; first based on location and then occupation. Idolor (2010) distributed 140 copies of questionnaires to bank workers located in one town. A non-probability sampling technique was used. The response to rating scale questions were tested for significance using the "t-test". The analysis revealed that respondents did not view unofficial borrowing and foreign exchange malpractice as forms of bank fraud since they were common and an industry wide practice. It also revealed that there was an equal level of staff

involvement in initiating and executing fraud, with the concealment of fraud coming last in their agenda.

Albrecht et al.'s research contributions in fraud have been enormous. They conducted an analysis of 212 frauds in the early 1980s under a grant from the Institute of Internal Auditors Research Foundation, leading to their book entitled *Deterring Fraud: The Internal Auditor's Perspective*. With a focus on two distinct variables i.e. perpetrator characteristics and organizational environment, their research obtained demographics and background information on the frauds through the use of extensive questionnaires. The participants in the survey were internal auditors of companies who had experienced frauds. The researchers assemble and examined a comprehensive list of pressure, opportunity, and integrity variables, resulting in a condensed list of 50 possible red flags or indicators of occupational fraud and abuse. These. The purpose of their study was to determine which of the red flags were most important to the commission (and therefore to the detection and prevention) of fraud. The red flags ranged from unusually high personal debts,

It can be argued that this research may be generalizable in Ghana based on the frequency of occurrences in Ghana. However the scope and frequency for Nigeria is much larger and therefore the outcome of sample cannot be used to make any conclusive judgement on their population as a whole.

Data Description

Secondary Data Source

The initial plan for this research was to extract data from official case records such as statements, case descriptions and judges' summations and judgements. Also, statistical data such as the demographics of perpetrators, such as age, gender, education/qualification, position in office, date of joining organisation, type of organisation, source of detection, length of case trial, outcome (restitution and sentence), and accomplices.

In both Ghana and Nigeria, statistical records as per occupational fraud for low profile individuals were either not kept or data were not collected frequently. Also, the data sought were not collated in any standard format for analysis. When collated, the information was either inconsistent across the various cases or not dated. There were several challenges faced in Nigeria as the agencies did not have information stored in one place; it involved going from one department to the other. On the other hand, where I was assured that data was collected in an efficient manner at the ICPC, they classed this data as confidential information. Their claim was justified to some extent because they had reported a list of successful cases in a structured way on their website as well as in their annual published reports. Their yearly reports were consistent. The EFCC admitted to not keeping more details of cases in a format where they can be easily analysed and were currently working on a new system that would capture more information on cases.

Sometimes, actual demographic data were posted on their website for wanted individuals. In Ghana, EOCO did not offer any access and I was directed to their website which had very little information.

The EFCC report their successes with convictions each year. It reported 117 in 2013 and 126 in 2014 on their webpage (EFCC, 2014, 2013, 2010). Out of the total sample of 243 cases obtained from their lists, another list of 52 was obtained from the EFCC's office of High profile cases. Altogether, 295 cases were reviewed and selected according to their relevance to this study of occupational fraud crimes; based on the descriptions conveyed in the list on EFCC's website. 30 high profile cases were subsequently selected based on the high value of money misappropriated and the high-profile individuals involved in these cases. These cases were sometimes referred to as "PEP" cases; Politically Exposed Person or High-profile cases. The individuals involved have either been in political positions or in high-ranking positions within publicly owned organisations. These were cases that involve over a Billion Naira (£3.7million – an estimate based on an average of the conversion rates from 2010 to 2016).

Media reports

Many researchers have used media reports to support their study on White-collar crimes. Levi (2006) focused on how financial White-collar crimes were reported in various media outlets. His results suggested that these offenses were portrayed as “*infotainment*” rather than serious crimes, suggesting that the cases were sensationalized to provide inaccurate portrayals of these offenses. Stephenson-Burton (1995) used newspaper articles to study the portrayal of White-collar crime and found that the cases tended to be reported in business or law sections rather than the crime sections of newspapers. This may suggest to some, that the behaviours are not real crimes. However, it is justified, if reported in these sections because the crimes affect businesses and the law. Stinson (2009) used press reports to describe patterns surrounding specific forms of White-collar crimes. Stinson focused on 2,119 cases of police misconduct committed by 1,746 police officers that were reported in the national media between 2005 and 2007. In using media reports, Stinson could access a larger number of police misconduct cases than he would have been able to access through other methods. His findings provide useful feed for those interested in generating awareness about police misconduct.

Various national agencies and NGOs in Ghana and Nigeria provided reports of crimes committed but often only within their interest areas; that is within one industry sector. NGOs in Ghana include ACEP, GII, PIAC. In Nigeria, Justice4All, CLEEN Foundation. But sometimes the reports

are inconsistent from year to year. The EFCC and ICPC released annual reports on their activities yearly. The reports of the ICPC had more detail information on budgets and how they were spent in the course of the year.

During this research, Interviews were carried out with key crime reporters and analysts in Media houses who also granted access to their archive. Where access to media reporters was not possible: this was the case in Nigeria, a review of various national media types were carried out. Although a similar review exercise was carried out on the media perspective in Ghana: any assumptions were backed up and confirmed by the in-depth interviews with media analysts in Ghana.

The different types of media explored can be broken down into three categories: print, broadcast and the internet. Print media included newspapers, magazines and other types of publications. The prominent print media reviewed in Ghana was The Daily Graphic: In Nigeria, a few were reviewed and they are PUNCH, The Guardian, The Independent, The Herald, This Day, Vanguard.

Broadcast media consist of radio and television. Useful broadcast media programmes reviewed in Ghana usually featured on JOYFM and CITYFM. In Nigeria, TV channels such as NTA News, Channels Television, Sunrise, Pulse TV were frequently viewed. Though some of the media reports online were useful, some were not dated, therefore omitted from this study.

When reports on cases were retrieved from reliable websites, it was useful to save their headlines and links individually in date order. This was so that the progress of the case could be followed easily. This contributed to the validity of conclusions made in this study.

This study relied on media reports cautiously. Various studies have confirmed that the media have been known to be good at distorting crime news; because they can either give a distorted impression of the crime or the individual involved (Fisherman, 1978; Matheisen, 1990; Surrette, 1992; Barak, 1994). Furthermore, the subjective beliefs of crime and analysis of the crime situation can cast doubt on the accuracy of public perception about crime in general. Beine and Messerschmidt (2005), Selke and Pepinsky (1984) argued that the crime statistics are sometimes products of independent agencies and entities, each with ideologies biases, strategic purposes and finite resources and as such will vary (Friedrich, 2010). With this view, understanding the process and agenda by which these statistics are produced is more important than the resulting statistical data.

Data to be extracted from primary and secondary data source

Only essential data were collected to enable the research questions to be answered and the objectives achieved. Table 5.3 below shows a list of the data type collated for this study.

<i>Characteristics of case</i>	<i>Characteristics of perpetrator(s)</i>
<i>Type of crime</i>	<i>Name</i>
<i>Source of tip/detection</i>	<i>Position in office</i>
<i>Victim organisation</i>	<i>Gender</i>
<i>Year Investigation commences</i>	<i>Age</i>
<i>Prosecution year</i>	<i>Qualification</i>
<i>Appeal date and result</i>	<i>Length of time in office</i>
<i>Appeal held & result</i>	
<i>Summary of case</i>	
<i>Amount stolen– In country's currency and pound sterling</i>	
<i>Length of sentence</i>	
<i>Qualifications of lawyers</i>	
<i>Number of lawyers involved</i>	

Table 5.3 List of the data type collated for this study

This research used a combination of Primary and secondary data source.

Primary Data Source: Includes all information from interviews and the distribution of questionnaires to key individuals.

The basis for extracts from individual case files/reports:

The value of seeking out these types of information as studies like ACFE (2014) support, is that it helps to identify and quantify where fraud risk might lie in an organisation; what departments tend to be associated with certain types of frauds; or what demographic factors appear to impact the frequency or severity of occupational frauds?

Various White-collar literatures contain assumptions about the image of the typical offender which conform to Sutherland's (1949) original description. A perpetrator was often portrayed as a highly-educated male in the upper ranks of his organisation, who commits a one-time criminal act. However, Weisburd et al. (1991) demonstrated through their work that White-collar offenders might be better characterised as "middle-class". Holtfreter (2005), examined 1,142 occupational fraud cases, to address some voids in the literature by comparing differences in individual offender characteristics i.e. age, gender, education and their position in the organisation. The victim organisation's characteristics i.e. size, type, existing control mechanisms and revenue, were also examined. Holtfreter's (2005), analysis revealed that individuals who committed fraudulent statements conformed to the 'high status' image, while those involved in asset misappropriation or corruption were more 'middle class', offenders as asserted by previous studies by Weisburd et.al (1991). Also, that organisations plagued by occupational fraud were predominantly large, profit making companies.

No prior research has empirically examined differences in offender characteristics for occupational fraud in Ghana and Nigeria. This study aims to determine whether there any differences reflected in the cases that will be examined.

Age of perpetrator

This research sought to ascertain the age-crime distribution in the Ghanaian and Nigerian sample of high profile cases.

Hirschi & Gottfredson (1983) asserts that the rates of offending often peak between the “crime prone” ages of eighteen to twenty-five, and then decline over time. However, Benson & Moore’s (1992) study demonstrated that this may only be the case for aggregate crimes and may vary when distinct types of fraud such as White-collar crimes and street offenses are compared. Holtfreter (2005) confirms Benson & Moore’s (1992) viewpoint based on the premise that many conceptual definitions specify that legitimate employment is a condition for the crime to occur and be classed under the sphere of White-collar fraud. However, legitimate employment opportunities are often restricted by age requirement, so White-collar offenders are likely to be, on average, older than common offenders. Wheeler, Weisburd et.al (1991), Waring and Bode (1998) found that the typical White-collar offender” was a White male, aged *forty* on average.

Gender of perpetrator

Previous studies of gender and crime have relied on official statistics (e.g. Crime Reports) for a comparison of male and female involvement in various offenses. For most studies, the arrests of males always seem to outnumber those of females. Cressey’s (1953) and Sutherland’s (1949) studies are limited as Cressey’s interviews of convicted embezzlers took place within a male prison, making it impossible to

apply to both genders. Sutherland (1949) used sanctions against entire organisations as the primary unit of analysis, so the gender of individual employees were excluded from consideration as an explanatory or comparative factor. Daly (1989) re-analysed the findings of Wheeler, Weisburd and Bode (1982), whose research covered pre-sentence investigation (PSI) reports for male and female offenders convicted of eight Federal, "White-collar" offenses. Daly's (1989) analysis showed that the sample did not fit the stereotypical conceptualization of high status White-collar offender. Daly (1989) also found that women were more likely to have lower status occupations (e.g. clerical), while men are more likely to be employed as managers or administrators. Heimer (2000) and Steffensmeier (1993) examined arrest trends in economic offenses commonly grouped as White-collar crimes and found the gender gap had reduced. To contradict this, Holtfreter (2005) stressed that though this may have been the case, the increase in female arrests may have been because of policy changes resulting in the likelihood of more enforcement, and not necessarily mean there was an increase in women offending behaviour.

It is also important to note that over the years, there has been various push for gender equality in the work place which has given rise to women occupying higher level roles. For instance, Dawwuni, (2015, 2016) revealed that in Ghana, that there are more women participants in the judiciary compared to less than a decade ago; these includes the legislature and executive wings. 36 out of 275 seats in parliament are currently occupied by women, and only 9 in ministerial positions out of

39 state ministers. Some consider this development as a remarkable feat but the former Minister of Gender, Children and Social Protection, Nana Oye Lithur says it may take Ghana another 60 years to double the number of women representation in Parliament if conscious effort is not made to pass the Affirmative Action Bill into a law (Lithur, 2016). The Bill seeks to promote the full and active participation of women in public life by providing a more equitable system of representation in electoral politics and governance structures (Lithur, 2016). She also stressed how 136 women contested in the 2016 parliamentary elections but only 36 won their seats; although low, but a huge improvement over the years. There is no regulation that imposes quotas for women in corporate boards, neither are there any sanctions nor incentives for meeting any quotas in Ghana or Nigeria. Consequently, men still dominate the public sector jobs and in more high level roles (World Bank, 2017). However, the basis of selection of fraud cases were determined by the amounts involved and not on gender. Hence ruling out any possible bias at the selection and analysis stage.

Education or qualification

The perpetrator's education and qualification were also considered for this study. Previous empirical studies have examined the educational levels of offenders related to distinct types of crime. The petty criminals are more likely to have lower level of education (Loeber & Dishion, 1983; Thornberry, Lizotte, Krohn & Jang, 1991). The typical White-collar offender was assumed to be highly educated and prior research

contrasting White-collar and common offenders supported the assertion that White-collar offenders had higher levels of education (Benson and Moore, 1992). But, this may not always be the case as some individuals work their way up an organisation's hierarchical levels. No significant differences are expected between those offenders considered in this study who commit the various categories of occupational fraud when compared to previous studies.

Position in organisation

Cressey's (1953) and more recent studies illustrate the premise that an individual's position in an organisation can influence his or her opportunities, resulting in distinct types of offenses committed by employees at different organizational levels. All the embezzlers interviewed by Cressey (1953) occupied positions of trust/power by their victim employers. The positions of the individuals were often a reflection of the level of trust. Friedrich (2004) supports this by stressing that those in managerial or executive positions might have access to greater opportunities and might be viewed as "trusted," while those lower on the organizational chart might only commit less serious forms of fraud because of the level of their jobs.

Distinctive characteristics of the cases:

The selection of cases was from a large sample size of over 470 in both Ghana and Nigeria. The focus was on high-value frauds that occurred at a range (2000 – 2016). By doing this, the research could capture the

elapsed times from occurrence to court and then to the end of its cycle: that is a successful prosecution or the point where the agencies stop the prosecution process. The characteristic of cases sought included:

- The length of case, size of case in terms of the legal representation involved;
- Agency's level of engagement
- Witnesses involved.
- Time lags/delays
- Challenges faced by lawyers or others

This gave a better understanding of cases where prosecution had commenced. Also, an understanding of how cases unfolded.

The outcomes of cases were another focus point while reviewing the cases. The following factors were therefore taken into consideration:

- Consistency in sentencing/punishment
- Specific laws applied
- Challenges

Knowing how the outcome is arrived at, gave an insight into factors taken into consideration in the judges' summation.

Value of crime

The average fraud case in this study is about one billion. The value of the cases in this study will be evaluated in the country's currency as well as converted to the pound sterling equivalent in brackets, i.e. Ghana Cedis or the Nigerian Naira. Amounts will be converted using the

average conversion rates for the past ten years to bring back to sterling amounts; N268 for Nigeria; For Ghana, £0.20; €0.18 Euro; 2.6 Dollars.

All the above extracted elements were essential to drawing conclusions for *Research questions 1 & 2*. They were also useful for analysing any differences between the two countries and helped to highlight inconsistencies. Getting these types of information created a need to access some case files. Consequently, this raised issues of ethical standards to adhere to, as highlighted earlier in this chapter.

SAMPLING STRATEGY FOR THE INTERVIEWS

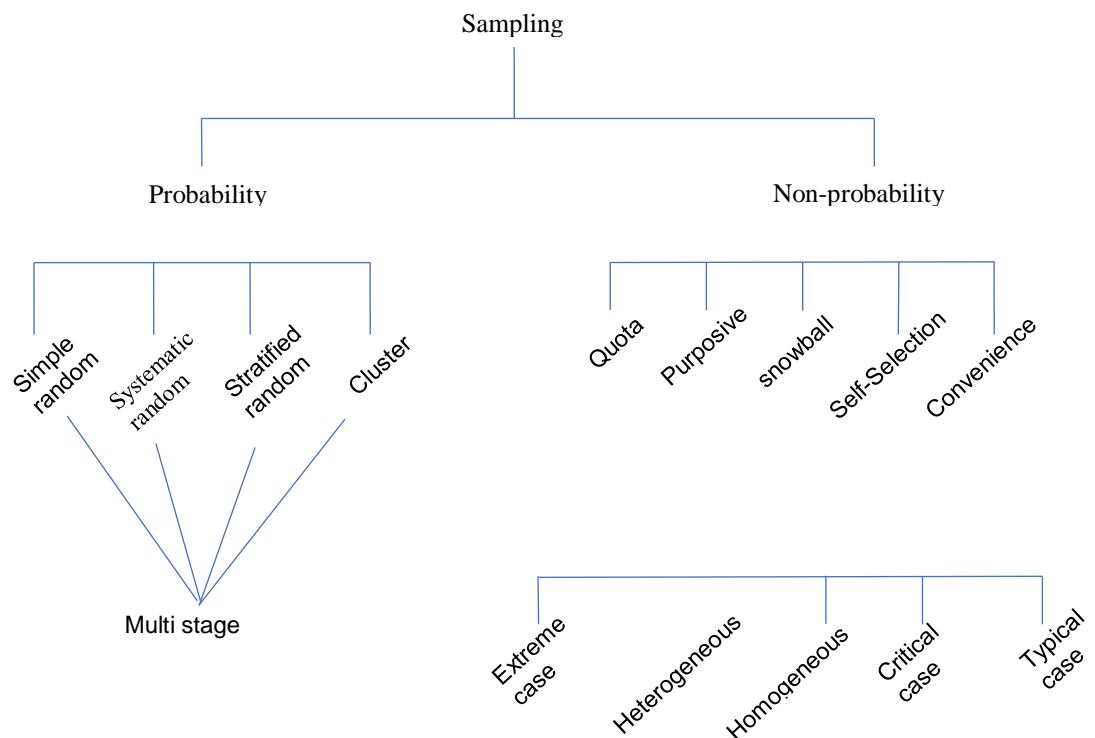


Figure 5.1 Different types of sampling methods

The sampling techniques considered can be divided into two types of categories and is depicted in figure 5.1 above.

The probability sampling technique for selecting samples assumes that the sample is statistically chosen. **Non - probability sampling** provides a range of alternative techniques to select a sample based on subjective judgement. **Quota** sampling is a type of stratified sample where the selection that is within strata is non-random; and based on the premise that the sample will represent the population with the variability in the sample for various quota variables being the same as that in the population. (Barnett 1991). **Purposive sampling** enables the researcher to use their judgment to select cases that will best answer the research question. It is a method used by researchers adopting a grounded theory route. **Self- selection** sampling occurs when individuals can identify their desire to take part in the research. The researcher therefore needs to publicise their need for respondents either by advertising through appropriate media or other platforms. For this research, aside from the media houses, places like the law school or universities would have been an appropriate platform. This was considered but would have been more time consuming and meant more resources would have been needed. Using a **Convenience sampling** method would have meant selecting the sample haphazardly (randomly) based on ease of obtaining or locating them. This would continue until a sample size is reached. This technique is often used for pilot studies before a more structured sample is gathered. Although this is a widely-used technique that is open to bias as the cases cannot be

representative, consequently any generalisations made from them are likely to be flawed. My contacts however, at the start of the research process were not sufficient to carry out a random sampling technique.

A snow ball sampling strategy

This was the only practicable mode of tracing enough respondents in both Ghana and Nigeria, where the research was heavily reliant on limited contacts, was by using a snowball sampling technique. It relied on the contacts between individuals to trace additional respondents. This worked out very well in both Ghana and Nigeria as establishing all the initial contacts on my own would have been difficult.

The respondent samples for this research were chosen so that the research can capitalize on their existing roles. These individuals were already part of the setting and knew it intimately. However, this sometimes meant that they were over familiar and missed important issues or consideration; and took certain issues for granted; Issues that may be vital to the analysis process. Nonetheless, interviewing various individuals helped to capture a fuller picture of the context and setting. So, issues missed out by individuals, groups of professionals were picked up by another. Respondents were asked to provide certain information about their professional experience and qualifications to gain a fuller understanding of their involvement in the frauds cases; and to give weight to their analysis.

Lee (1993), stress that the snowballing technique is open to bias as respondents are likely to introduce people with similar views which may lead to a homogeneous sample; while Beardsworth and Keil (1992) also argue that such technique cannot possibly claim to produce a statistically representative sample since they rely on other individuals.

However, the triangulation method adopted by this research helped to produce a balanced picture.

Idolor (2010) used a non-probability sampling technique in Benin City Nigeria. One of the reasons the sample city was chosen was for its heterogeneous metropolitan characteristics with highly educated individuals; and cited it as a potential haven for fraudsters with an interest in defrauding banks. 140 questionnaires were distributed to a specific audience; staff of several banks located in one large city in Nigeria (Benin City, Edo State). 109 completed questionnaires were retrieved, of which 100 were satisfactorily filled and usable. Their aim however, their aim was to generate an explanation of the types of fraud affecting the banks in Nigeria and the factors driving this motivation.

Sample area and site

Taking into consideration suggestions from Jupp et.al (2000), and Punch (1998), the sample plan for this study was chosen to achieve the research purpose and answer the research questions. In identifying the samples, the research aimed to address issues around representation, generalizability, reliability and validity.

The interview sample in Nigeria was chosen from Lagos and Abuja; in Ghana Accra. Selection of these sites was based on their typicality. Consequently, this allowed for possible comparison between urban settings in both countries. These are the main areas where higher net value fraud cases were reported on a frequent basis. Gomm, Hammersley and Foster (2002) stress that performing multi-site studies increases the generalizability of qualitative research. Holtfreter (2005) argues that studies of White collar offenders limited to one unit of analysis (i.e. individual) and restricted to convicted samples might perpetuate potential biases.

This study is focused on proportion of value of theft and how low and high-profile cases are handled, but it captures cases from across the country.

The Target Population

The sample population selected for interviews and questionnaire distribution were carefully selected to ensure that their contribution helped to answer the research questions. They were selected because of their knowledge and experience of the country as well as their expertise in this research topic. Each chosen group had the potential to provide important insight about the types of offenders, offenses and organization involved in the occupational fraud cases in both countries. Their contribution consisted of perceptions and facts.

This survey was opened to

- Solicitors

- Barristers
- Investigators
- Academics
- Media
- The main crime agencies in Ghana and Nigeria – EFCC, ICPC, EOCO and CHRAJ
- Gatekeepers – inspectors, organisations – Head of fraud/ risk management

Defence Barristers/Lawyers

The recount of activities and opinions from private defence barristers were also crucial to this study because over the years they have had direct involvement with occupational fraud cases and had various interactions with the systems in place. It was useful to hear challenges from both sides' account of some case.

Investigators and Prosecutors

The investigators and prosecutors worked at the main crime agencies in Ghana and Nigeria are EFCC, ICPC, EOCO and CHRAJ; where permission was sort to carry out the research. Again, this sample was chosen so that the research could capitalize on their existing roles and activities. The individuals from these organisations that took part in this study, were already part of the setting and know it intimately. It was clear from their vague responses to questions in the questionnaires that they took certain issues for granted; Issues that may have been vital to the

analysis process. Therefore, the opportunity to interview other individuals (the barristers who defended perpetrators) captured a fuller picture of the context and setting. So, issues missed out by individual in the Agencies, were picked up elsewhere by other participant groups.

Crime journalists

These included journalists from the print and electronic media. Print media includes newspapers. Electronic media included television and radio. The Journalists were familiar with the challenges these sorts of cases bring having reported on several occupational fraud cases over the past years. It was useful to get their accounts first hand.

Academics

Another useful research exercise were the interactions had with Academics that had studied this topic area over the years. They were familiar with certain prominent cases, societal challenges, improvements needed in the system and any gaps in studies. In Ghana, I came across Barristers that were also lecturers in the universities; so, they shared both their academic and commercial exposure to the subject.

The next section highlights the various research techniques that were explored, in order to capture all interactions with my chosen respondents.

RESEARCH TOOLS

Exploring various interview alternatives

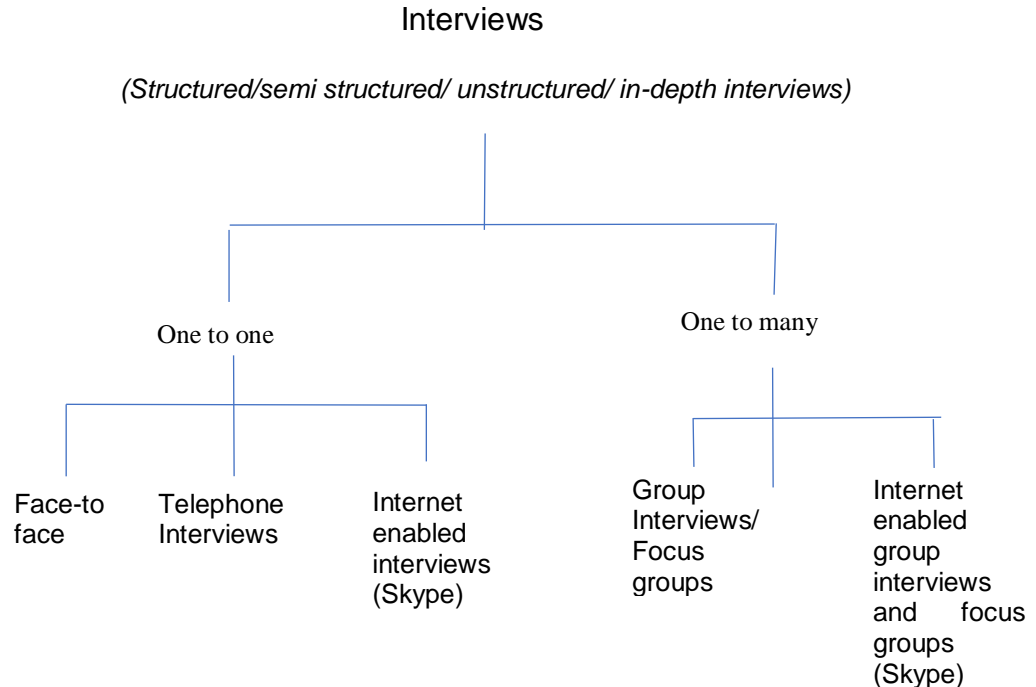


Figure 5.2. Illustration of the different types of interview styles

Interviews may be highly formalised and structured using standardised questions for each research participants (respondent) or they may be informal and unstructured conversations. (Saunders et.al, 2009) The level of formality and structure depicts the category of interview. Saunders et.al (2009) highlight three categories namely structured, semi-structured and unstructured or in-depth interviews. Healey 1991; Healey and Rawlinson, 1993, 1994) differentiate between standardised and non-standardised interviews. Robson (1993) suggests a different category type, respondent (participant) and informant interview.

The aforementioned interview techniques in figure 5.2 were appraised in order to consider what was best suited for this research. **Structured interviews** use questionnaires based on predetermined and standardised or identical set of questions; usually with pre-coded answers. The questions are usually read out and responses recorded. They are useful when collecting 'quantifiable data' and usually used in quantitative researches. This is a qualitative research and as such, this method would not have been suitable.

Unstructured interviews are informal. They are used to explore in-depth situations. There is no predefined list of questions to ask but the researcher has to be clear on areas to focus on during the interview to achieve the research objective. Often called 'non-directive' as the interviewees can talk freely about events, behaviours, and beliefs in relation to the research topic. Though this would have been a good way to gather in-depth information, it would have been very time consuming with no guarantee of getting the specific information needed for the study.

Group interviews / Focus groups

Conducting group interviews or focus groups may have been a useful exercise to conduct in both countries: however, time constraints was a major issue.

I attended one group forum in Ghana, but this was based on discussions around Politics and the various political parties. There were lots of

interactive discussions amongst participants. Participants included a good mix of Academics, lawyers and business individuals. They were not only selected because they had certain characteristics in common that related to the topic being discussed, but because they were passionate about Politics in Ghana and shared philosophy of the organisation responsible for organising the forum. The group were encouraged to discuss and share their points of views without any pressure to reach a consensus (Kruger and Casey, 2000; Carson et al.2001). These discussions were often heated but was enlightening as it stimulated good debates and a free flow of ideas that revealed areas not even thought about. It also gave a greater insight into the political environment and the angst of the citizens. I also made new friends and contacts through that event. I came away knowing that this was a good way to discuss trends and confirm patterns that had been identified when data collected are analysed.

However, I learned from this experience that there were possible drawbacks to this approach, as it requires a high level of skill to conduct and engage with every individual in the group. The coordinator in this group was often prompted to give others a chance to express their views. From the scheme of things and from discussions with the organisers, It was time consuming to arrange and conduct because it involved putting many other factors into place such as the venue, refreshments, seating arrangements, structure of discussions. It also needs the effort of good contacts or society connections to make sure there is a balanced mix of audience.

So, each form of interview approach reviewed above had a distinct purpose and character. Data gathered from standardized interviews are normally subject to quantitative analysis. Semi-structured and in-depth (Non- standardised) interviews are used to gather data that are analysed qualitatively.

Having appraised the different interview options, this added to my deeper understanding of the nature of interviews. Though there were overlaps between these interview categories, a semi-structured approach was chosen as the best fit for achieving the research objectives and purpose within the given period. It is also consistent with the methods used by other similar researches.

Semi-structured one to one interviews

Semi-structured interviews are often referred to as 'qualitative research interviews' (King 2004) where the researcher may have several themes and questions to be covered, but that may vary from one interview to the other. Sometimes the nature of the questions may vary, added or omitted given the organisation context about the research topic. The use of interviews helped to gather valid and reliable data that were relevant to the research question(s) and objectives. As Goldstein (2011) reiterates, this historically, remains as a popular means of gathering rich data because it is obtained directly. This method has been used successfully by Goldstein (2011) as well as many other well-known

White-collar crime researchers, such as Cressey (1954), Spencer, (1959).

A series of semi-structured interviews were undertaken and recorded with the consent of key individuals, such as investigators, prosecutors, defence lawyers, crime journalists and academics to collate their views on the work of the agencies and the reasons why prosecutions frequently don't occur or succeed. This stage was made up of many purposeful discussions between respondents. This allowed for a full account and expression of interviewee's views and will add information about the challenges and frustrations that exist in the work of counter fraud in Ghana and Nigeria. This was a good opportunity to establish personal contacts and give reassurance to respondents as some may feel that it is inappropriate to provide sensitive and confidential information to someone they had not met before. The nature of open-ended questions makes this option a better mode for delivery, as questions can be clarified in the process. The use of personal interviews achieved a higher response rate than using questionnaires.

Respondents in this research were asked to provide a detailed narrative of the fraud cases they had successfully or unsuccessfully dealt with or investigated that meets the four criteria below:

- The case must have involved occupational fraud (defined as internal fraud or fraud committed by a person against the organisation for which he or she works).

- The investigation must have occurred between January 2010 and the time of survey participation.
- Prosecution must have commenced or been completed

The length of interviews ranged from roughly 30mins to 1 hour. The interviews were tape-recorded, transcribed, preserving the original language of the interview participants. This will be English, but with a dialect tone.

The interviews were analysed using QSR NVivo 9. The research notes were written up as soon as possible after each interview in a notebook. Sometimes this was in-between interviews (on site or by evening). This was done, not only to ensure the accuracy of the recording of the accounts, but also to make sure the essence of my own thoughts and feelings were captured as soon as possible, allowing time to reflect on the whole fieldwork experience. Once all the data were collected from the respondents, the basic offender descriptors and common themes were identified to develop a conceptual framework.

Advantages of using semi-structured interviews

Bryman (2008) stresses that this is a good way of finding out what things are happening rather than identifying frequencies. It is assumed that relying on case analysis and questionnaires may illustrate the state of play and confirm or counteract current perceptions of these two countries. However, by viewing the situation vicariously through the eyes of various selected professionals, it is likely that a richer repertoire of schemata was developed. The interview process was a flexible and

adaptable way of finding things out. It allowed for an insight into both societies through the participant's eyes, and as such allowed for things that may otherwise go unnoticed to be seen. As Lofland (2004) points out, the recording of such experiences serves at least two purposes: first, it gives the respondent the opportunity to be honest about their feelings towards certain subjects and secondly, it ensures that reading the notes later would highlight any obvious biases. Robson (1993) also stress that the human use of language is fascinating both as behaviour and for the unique window it opens on what lies behind actions and consequently, sees it as a useful way to observe behaviour.

Though it has many advantages, nevertheless, it is not a soft option for data gathering techniques, so it calls for considerable skills and experience on the interviewer's part to minimize any likely biases that may arise such as the standardization of time. As the whole process can be time consuming, strict monitoring of time must be adhered to. As a guide, anything under half an hour was not deemed as valuable. I also avoided doing interviews over one hour as I knew this may put a strain on busy interviewees and could have the ripple effect of reducing the number of persons willing to take part, which may in turn lead to biases in the sample that is achieved.

The interviews were *retrospective accounts* and attract some of the limitations attached to oral history as identified in Cockcroft's (1999) study. This includes unreliability of memory and the influence of

hindsight. When individuals are being asked to give retrospective accounts of events which occurred sometime past, there is a risk that with the passage of time, one gets a different account of events. However, one advantage of using a triangulation method is that it counteracts this risk, because the information or data extracted can be confirmed using other sources e.g. case and media reports.

Although, using interviewing as a methodology addresses some issues of *data reliability*, it does not eliminate issues surrounding the accuracy of the interviewees' accounts, nor the researcher's own recording and interpretation. Therefore, these can raise reliability issues.

The process of interviewing

Before the interview process began, a considerable amount of time was spent trying to learn and perfect the act of interviewing; and develop a style. Watching how interviews were conducted by individuals of well-known worldwide programmes and debates such as Hardtalk, Channel 4 News with John Snow, Political debates all helped to shape the right attitude and interviewing skills.

An ethical stance was taken, of doing things openly with consent. Permission was sought and confirmed before the interviews commenced, with an explanation as to why this mode was preferred as Healey and Rawlinson (1994) advises. Most participants were sent a general outline of the study and consent form; and in some cases, a summary of the format and content of interview i.e. the list of questions were also offered prior to the interviews taking place. This was sent via

an email. Jones (2014) suggests that by giving the interviewees information from the beginning, prior to conducting the interview the interviewer stands more chance of getting more out of them.

The way the interviews were conducted varied. Some were conducted in the workplace, others in public locations but in secluded areas in cafes or restaurant; and some via the internet i.e. skype.

The interviews were reflective and semi-structured with an interview guide covering a range of topic areas including the criminal justice system, investigation techniques, plea-bargaining system, prosecution experiences, and academic perspective.

Questions were kept as open as possible to allow the participant to develop themes that I may not ask about. This was done by asking, for examples,

“what experiences would you say have been important for you, considering the way the judiciary system is today?”

or

“You said...can you elaborate on that?”

Rather than systematically leading them on, their utterances were summarized and fed back to them, encouraging them to elaborate or adjust their points if they wanted to. This not only helped to demonstrate that they had been understood adequately but also to establish trust: it showed attentiveness and interest in their life experiences.

The length of interviews ranged from roughly 30mins and over. The interviews were mostly tape-recorded, transcribed, preserving the

original language of the interview participants (in English, but with a dialect tone) and analysed using QSR NVivo 9.

Advantages and disadvantages of Interviewing

One advantage of interviewing was that it gave the opportunity for in-depth discussions and probing of issues. However, Interviewing was a very time-consuming process; preparing, managing logistics and the number of interviews at any given time. Also, conducting and transcribing all required different skills. It became a costly exercise when managing the logistics in both countries as I could not always rely on the help of family and friends.

The methods of intervention were heavily prescribed by the participant's availability and requests; as well as the agreed terms. There were days when instances such as heavy rainfalls created challenges as it made for me to get to pre-arranged interviews difficult. Consequently, sessions had to be rearranged. There were also instances where lawyers cancelled due to emergencies popping up. Some interviews were scheduled outside office hours which meant either getting to the site very early or staying after office hours to get the time promised. In some cases, time constraints put indirect pressure on me; because I was eager to get through all the interview questions I missed opportunities to probe further on some issues that were raised. Only when the interviews were being transcribed and used within the research, I started to question

some points further. Luckily in some situations, I had the chance to approach the respondents again; asking them to expand on their views.

The opportunity to have in-depth conversations about the research topic was insightful, but in some instance it was also very daunting because some of the interviewees were intimidating. In one instance, it was the pitch in the voice. In others, the responses sometimes created awkward moments; especially when the interview questions were corrected and rephrased in a manner that disregarded, invalidated its intention. I had a double-edged view about this instance, as it came across as “arrogance” and “a way of gaining control “. But on the other hand, it could also be viewed as a way of getting the interviewer to challenge their statements. Initially, this affected my confidence as an inexperienced interviewee as I was taken off guard and placed in a position of unease. That was my first experience.

On the contrary, when the interviews were carried out in a relaxed and pleasant environment, both myself, and the interviewees enjoyed the conversation. The ambience during one interview is depicted by the extract from the research notes in this study in the ‘*data recording*’ section. From this experience, there was a confident and positive anticipation for the next interview knowing that I had gained a greater insight.

I developed empathy for people with a very agitated disposition, knowing that working in a chamber, was a pressurised environment where the Lawyers had to keep abreast with various issues, and are constantly

trying to figure out the best ways to win their cases using appropriate statutes and past cases. However, when less pressurised, many of the Lawyers interviewed were generally chatty individuals and loved to elaborate on their points. Some individuals were more astute at getting the points across than others. It helped in most cases, when the potential list of questions likely to be covered in the interviews was distributed prior to the interview taking place to help them prepare a response. However, because the interviews conducted took place after the offences (sometimes considerably later), the process of recall was dependent on several factors, not least the interviewee's memories, and the bearing this had on the accuracy of the accounts. It may therefore be impossible to know whether the lawyers were entirely truthful in their accounts. Some respondents used various linguistic truth-value devices, by including what will be termed as statements, facts, assertions, beliefs and opinions to elaborate their points.

Data Recording

During the interview, the background information was introduced and discussed on cases the interviewees were involved in. Then individuals were encouraged to give account of circumstances during the cases. I made some handwritten notes (after the interviews took place) as well as tape recording. This was done to ascertain concentration, and to focus more attentively to understand not only what was said, but also to capture the expressions and non-verbal cues from the interviewee. Saunders et.al. (2009) and Dilulio (1987:2) highlight this as a very helpful

interview tip, because although audio-recordings can capture the tone of voice and hesitations, they do not record facial expressions and other non-verbal cues. These notes may not be the full and exact words used by the participant but it represented the key points from each interview. Research notes were written up soon after each interview – in between interviews. This not only ensured the accuracy of the recording of the accounts, but also to make sure the essence of my own thoughts and feelings were captured as soon as possible, allowing time to reflect on the whole fieldwork experience. These notes formed the basis of some quotations used within this thesis. The following is an example of notes taken from a pleasant interview:

- *“A joy to interview! A very relaxed interview.*
- *Very pleasant, friendly and intelligent lady.*
- *Easy to talk to. Was happy to share her experience and her knowledge.*
- *Very well spoken and articulated all her points very clearly.*
- *She gave very good, clear and relevant examples to illustrate all her points. Transcribing the interview was also very pleasant, because it brought back the ambience of the actual interview process “(notes from one interview experience in Nigeria - N3).*

The following is an example of notes taken from an uncomfortable interview (N1):

- *Very posh office, with the AC on full blast and very cold at 7am. I was kept waiting for a few minutes outside his office.*
- *I was then ushered in and offered a seat and then kept waiting again while he answered a few phone calls, and then responded quickly to an email.*

- *His voice was a very deep, powerful tone, serious, stern, came across as unfriendly and to the point; overbearing.*
- *First the greeting was serious.*
- *Made me feel very uncomfortable by repeating my questions and rephrased some.*
- *He corrected some of my references abruptly.*
- *He challenged some of my thinking, almost by belittling my points. This I felt was done to destabilize me and take control.*
- *This made me uneasy and wanted to finish the interview as quickly as possible.*
- *The interview was constantly disrupted by messages and call coming through.*
- *Transcribing the interview brought back all these memories of how I felt.*

This was my first interview. Arranged very quickly by a friend. It had to take place very early in the morning. I was somewhat nervous because it was with a very senior Barrister; a SAN. A SAN, is a title that is conferred on legal practitioners in Nigeria of not less than ten years' standing and who have distinguished themselves in the legal profession. It is the equivalent of the Queen's Counsel in the United Kingdom. Although I was uneasy during the interview process, I felt lucky to have the opportunity and got some good discussion points out of the interview. Being a barrister, I concluded that staying in control of any discussions or legal arguments and 'tearing people to shreds' may come naturally to him. He became very friendly and jovial after the interview when my friend came to pick me up.

Lofland (2004) points out, the recording of such feelings serves at least two purposes: first, being honest about one's feelings towards certain subjects and secondly, ensuring that reading the notes later would highlight any obvious biases (Lofland 2004:235).

Once all the recordings were collected from the respondents, they were imported into Nvivo. Pertinent sections of each audio recording were linked to the transcribed documents. This process was used to extract nodes and develop common themes. Any categorisation of actions was based on case accounts. All names and places were anonymised using reference numbers to protect the identity of participants.

Advantages of audio-recording the interviews

The advantage of audio recording allowed me to concentrate on questioning and listening. Consequently, because all the discussions were captured, the interview was accurately recorded and reported for use later, in an unbiased manner. Also, this facilitated the transcribing process as the interviews could be re-listened to, this is to ascertain all points were captured. Direct quotes were used from the interviews. This also creates a permanent record for test of authentication; thereby eliminating threats to reliability and validity highlighted by Robson (1993).

Disadvantages of audio-recording the interviews

Though Saunders (et.al) supports this as a good technique for capturing information, they also stress this may adversely affect the relationship between in interviewee and interviewer (possibility of 'focusing' on the audio recorder).

The audio recording may possibly have inhibited some interviewee's responses in this research in terms of how much was said on the record. However, this I assume, has no bearing on the reliability of what was said, as all interviewees were confident, with the odd one being domineering and intimidating. Lawyers, in my experience during this study, enjoyed the opportunity to showcase their intellect and even better when they knew they were being recorded because it magnified the attention.

Major disadvantages experienced, was not only the time required to transcribe the audio recording, but also the ability to capture important bits within the interview that were relevant to the research.

Transcribing the interviews

All audio recorded interviews were transcribed into word processed documents. The intention was to grasp not only what participants said, but the way things were said as well. However, not every content of each interviews was useful because sometimes the interviewees were unforthcoming and some parts of the conversations were not directly relevant to the research topic. Despite this, the full interviews were transcribed even if some portions were not illuminating and uninteresting. By transcribing the interviews, this ensured that nothing

significant was missed and to capture everything for the analysis process.

The sheer amount of data collected from the interview transcripts (averaging about ten pages each) was at first overwhelming, but using NVivo made it much more manageable. Each transcribed interview was saved as a separate word-processed file and then imported into NVivo for analysing. In Nvivo, sections that were pertinent to the research were highlighted and linked to the audio recording.

Advantages of transcribing interviews

Transcribing the interviews allowed a more thorough examination of what the interviewees said. Noting down and having evidence of exactly what was said and not what we heard eliminates bias and helps validate points within the research. Carrying out the process gave opportunity to connect with what was being said; and helped with the process of identifying key themes. It was easier to highlight points on a document and link to a theme.

Disadvantages of transcribing interviews

If traumatised during an interview process, like my first interview cited earlier on, transcribing the same interview would bring back the same feeling when listening to the interviewee's narration. Listening to the voice caused flashback – both positive and negatives.

Questionnaires

Omotoye (2011) used surveys polled from grassroots experiences and perceptions of people directly affected, thus suggesting evidence of originality and validity. Similarly, to Dada (2013), different sets of questionnaires were designed and distributed to the staff of EFCC and EOCO and the targeted professionals. The questionnaires were designed to be used in the interview process as well as distributed where the difficulty of gaining an interview arose. This way, surveys were conducted in more than one setting at the same time. The research can also be conveniently targeted at a wider number of samples. Though this method was cheaper and quicker, there were challenges experienced at EOCO and EFCC when the study was carried out. This included:

- Omission of questions by respondent.
- Inconsistent responses – some were detailed and some very scanty.
- Little understanding of the background from which the respondent writes and under what conditions i.e. prescribed conditions where their office instructs them on how to answer the questions.

Participants from the EFCC and EOCO were subject to the rules of their engagement in these agencies. There were no recorded interviews allowed therefore this stage of gathering data was heavily reliant on the responses in the questionnaires handed out. From the study, it was

apparent that the content of the completed questions varied remarkably, as some came back scanty and some well answered.

At EOCO, in Ghana, the questionnaires were demanded and scrutinized by the director, assistant director as well as their legal team. Only the questionnaire designed for the prosecutors were accepted on the premise that they take control of administering the questionnaires to their staff and collecting. This of course highlights an element of control and may in turn raise questions on the reliability of responses received. The questionnaire distributions were carefully coordinated by the EOCO staff, and this consequently gave no allowance for absolute anonymity. I can therefore only assume participants were not forced to take part in the research; but cannot give any assurances that their responses were not limited or biased due to internal controls.

Gaining access to the case materials and respondents

The agencies visited had not kept statistical information to finite levels particularly demographic data. The EFCC had only just started collating data from all their past cases dating back to 2012 as at October 2015 to bring their database up to date. They faced various challenges as hard copy of files were also missing. Terms were agreed upon as to how information was permitted to be used; including *clarification on who owns the data collected*. Consent forms were signed and some organisations confirmed their willingness in writing. There was no need for any special agreement to be made or entered while conducting this research; if there was, prior advice or consultation would have been sought from the ICJS

faculty. The Ethical consideration section of this thesis covers in detail, challenges that were faced while trying to gain access and ethical considerations.

Colour Coding of Questionnaires

The interview questions were designed and colour coded to demonstrate their link to the research aims and objectives. Table 5.4 illustrates this. See also table 5.5, which shows the list of interview and questionnaire questions.

1	What are the characteristics of perpetrators?
2	Are The prosecutions effectively managed?
3	What are the barriers, if any to effective prosecutions? Are the stages from investigation to prosecution effectively managed?
4	How do Ghana and Nigeria compare based on occurrences? Are there any differences between the prevalence in both countries?

Table 5.4 Colour coding for Questionnaire and interview questions

The questions served as a guide during interviews. In some cases, the order of the questions was not followed verbatim, but instead the personality of the interviewee dictated the flow of the interviews. Some interviews were conducted like a discussion, this allowed a freer flow of suggestions and answers.

A sample of questions from the questionnaire and interview are depicted in table 5.5.

Table 5.5 Questions for EFCC (Nigeria) and EOCO (Ghana) Prosecutors and Investigators (private and public); Defence Lawyers

1	Who are the typical victim organisations? I.e. name, type, size, industry?
2	Who are the usual perpetrators? I.e. the perpetrator's position, gender, average age, tenure, educational level, department, employment history, criminal background, red flags displayed.
3	Do you think occupational fraud is on the increase?
4	What types of occupational fraud crimes / cases are currently prevalent in the country?
5	How are the frauds detected i.e. source of tips
6	Are there any legislative or government support for protecting informants and individual sources that play a key role in exposing fraudulent activities?
7	How frequently are cases taken to court?
8	What are your views in terms of the prescribed length of time cases take in court to reach a judgement.
9	With regards to the judicial system, what experiences would you say have been significant while prosecuting or investigating people accused of committing fraud: from the investigation stage to the conviction stage?
10	Have you faced any challenges when investigating or prosecuting a suspect? Political? Cultural??
11	What are your views regarding the plea-bargaining system as it currently stands?
12	What do you think about the new law SECTION 10 and its effect on the EFCC's powers so far in prosecuting individuals? Some say it has in effect handed over power to the Attorney General of the Federation (AGF)
13	What are your views regarding the recent recommendation by S. Oresanya's panel for these government organisations to be streamlined?
14	What are your views on the influence of politics on occupational fraud cases?
15	What are your views on judicial independence as it stands in your country?
16	Have you any suggestions for improvements?

Launching the Questionnaires and Conducting Primary Data Collection

Prior to the start of the research, having identified the target population and questionnaires developed, a letter of introduction explaining the purpose of the research was drafted and sent out to known and established contacts.

Some organisations in Nigeria agreed verbally over the telephone and by letters to confirm willingness to participate in study. This study required access to more than one organization. These included law firms, court repository, academic institutions, law enforcement agencies, fraud examiners.

Case analysis

The use of archival records such as case records is relatively common in White-collar literature. In this context, it refers to the various reports stored away in archives or as a database by an organisation; which when put together gives a full picture of the case and all parties involved. This was an essential exercise, as the research sought to correlate data and patterns in relation to demographics. The focal point was on occupational fraud cases that had passed through the courts between 2000 - 2015. This allowed for a larger sample size. This analysis aimed to provide an insight into the actual work that goes on in these courts; making use of primary (raw data unaccompanied by any analysis or interpretation) as well as secondary data sources (analyses, syntheses and the evaluation of information). All relevant data were extracted from

case documents at some law chambers. The data extracted was recorded on a spreadsheet and used later in the data analysis process to draw conclusions. It helped to provide a picture of the actual counter fraud work that goes on in court.

Together, the tools discussed so far brought about several advantages, which include not only a convergent picture of occupational fraud prosecutions in both countries but also highlighted areas where the system was ineffective or lacking, this gave some value to the study. Other advantages included were the access gained to the legal milieu and rich data; the active cooperation from astute professional audiences from various parts of the community, all shedding their perspective on the situation. This reflects Brewer and Hunter's (1983) theory that the larger the number of converging measures or diverse independent sources (observers, interviewees, or methods of collecting data) on a phenomenon that say the same thing, the greater the confidence that can be attached to the findings. It is the hope that the weaknesses of one method can be countered by the strengths of the others (Kings, 2000). By using this type of triangulation method, it eliminated intrinsic bias that could stem from using a single method, single observer, and a single theory Denzin (1970). Carrying out the research in this manner also expanded the range of interpretations available at the end of the research.

This section also highlighted the challenges of carrying out research in adverse weather conditions, which directly and indirectly affected some of the processes. Heavy rainfalls meant some sessions were cancelled due to not being able to travel around. The heat in both countries also served as a hindrance sometimes because it led to exhaustion and a confused spirit. Also, the ability to work under such conditions were challenging at times.

After all data were collected, they were analysed in stages to get a broad picture of occurrences in both countries. The next section explains how all the data collected were analysed.

Analysing the data

Data analysis methods

Seven qualitative data analysis methods were evaluated to help justify the rationale for this study method. The following paragraphs gives the rationale for disregarding other data analysis methods.

First method evaluated was 'Grounded Theory' (GT) developed by Glaser and Strauss (1967) is a systematic methodology involving the discovery of theory through the analysis of data, (Martin Turner, 1986). Using a 'bottom up' approach, GT requires the analysis to be directed towards theory development (Holloway and Todres, 2003). Later other contributors broadened this theory to three paradigms; Classic, Straussian (Strauss and Corbin, 1998) and Constructivist GT (Thornberg, 2012). Thomas and James (2006) argue that "it is impossible to free oneself of preconceptions in the collection and analysis of data in the way Glasser and Strauss suggests." Classic GT requires for the researcher to re-enter the field, having analysed the first round of data collected and to conduct further interviews to address questions arising from previous analysis; a process known as "*data saturation*". Consequently, due to time constraints, it would have been difficult to fully exploit in this study. In addition, the study does not seek to develop a theory.

Content Analysis approach

The possibility of using a Content Analysis approach (CA) was also critically assessed. This approach entails the analysis of various types of texts including writing, images, recordings and cultural artefacts. It tends to focus more at a more micro level, often involves (frequency) counts of qualitative data. (Ryan and Bernard, 2000; Lasswell and Casey (1946).) The themes in this trajectory are often quantified and the units of analysis tend to be a word or phrase. In my research, the themes are not quantified; with various units of analysis which includes the participants. So, this approach was unsuitable.

Discourse Analysis

Discourse Analysis (DA) is a qualitative analysis approach which encompasses several approaches to analyse written, vocal or sign language use or any significant semiotic event. In its many forms, it could include psycholinguistics and sociolinguistics. Brown and Yule (1983) highlight difficulty in the early stage of research where choices directed by the research aims must be made. Making the choice is difficult because of the different manifestations of the methods that exists from within what some theorists see as a broad theoretical framework (Potter and Wetherrell, 1987; Burman and Parker, 1993; Willig, 2003).

Narrative Analysis

Narrative Analysis (NA) emerged as a discipline from within the broader field of qualitative research (Riessman, 1993). Narrative Analysis uses field texts, such as stories, autobiography, journals, field notes, letters conversations, interviews family stories, photographs (and other artefacts) and life experiences as the units of analysis to research and understand the way people create meaning in their lives as narratives (Clandinin and Connelly, 2000). Boje, (2001) argue that although Narrative Analysis challenges the idea of quantitative objectivity, it is nonetheless lacking in theoretical insights of its own. Again, different streams of this method exist from within a broad theoretical framework, making a choice difficult (Murray, 2003).

Interpretative Phenomenology Analysis (IPA)

A critical review of this approach revealed that although it is classed as a qualitative approach the Phenomological Analysis is relatively more suited for studying people phenomenon. McLeod (2001) It has an 'Idiographic' focus, which means that it aims to offer insights into how a given person, in each context, makes sense of a given phenomenon (Smith, Jarman and Osborn, 1999; 2003). It is about understanding people's everyday experiences of reality in detail, so to gain an understanding of the phenomenon in question (Brocki and Wearden, 2006).

Case Study

A case study approach was also considered. Case studies date back to 1879 (Healy, 1947), but often more associated with Classical GT. This method focuses on complex situations while taking the context into account (Keen and Packwood, 1995) therefore capturing the holistic and meaningful characteristics of events (Yin, 2003).

Although it allows for a deeper and richer in-depth analysis, a smaller sample will be best suited for this method. Consequently, it is not suitable for this study as there are too many cases to look at individually in great depth. Additionally, a small sample size can inhibit a broader or more transferable set of findings (Pringle, Drummond, MacLafferty and Hendry, 2011).

Thematic Analysis

Thematic analysis is the most commonly used method of analysis in qualitative research analysis (Thomas and Harden, 2008; Guest, MacQueen and Namey, 2011) and is used for identifying analysing and reporting (themes) within data (Braun and Clarke, 2006). This method of analysis is usually driven by both theoretical assumptions and the research questions. It allows flexibility for data analysis and allows researchers with different methodological backgrounds to engage in this type of analysis. Reliability is an issue, with this method as some may argue that there are wide varieties of interpretations that may arise from the themes; as well as the difficulty of assigning theme to large amounts

of text. This can be avoided if multiple researchers are coding simultaneously, which is possible with this form of analysis (Guest, MacQueen and Namey 2011). Bazeley, 2009, asserts that this method can be over reliant on the presentation of themes supported by participant quotes as the primary form of analysis rather than as an outcome of rigorous data analysis processes. This study aims to avoid this trap by generating the themes based not only on participants' quotes but also on the media and actual case summations.

Having reviewed several methods, a thematic analysis method was chosen for this study; to demonstrate that a rigorous process was applied to this research and to eliminate any possibility of being biased and making unfounded assertions. This methodology is based on the principles of (Braun and Clarke's (2006) *thematic analysis* using NVivo 11. As Maykut and Morehouse (1994) points out, "Words are the way that most people come to understand their situations; we create our world with words; we explain ourselves with words; we defend and hide ourselves with words" Therefore in qualitative data analysis and presentation, "the task of the researcher is to find patterns within those words and to present those patterns for others to inspect while at the same time staying as close to the construction of the word as the participants originally experienced it.

Thematic Analysis

This research process is not given to mathematical abstractions, it is nonetheless a systematic approach to the data collection and analysis. Similar to Lupton (1996) and Beardsworth and Keil (1992) It is framed by a focus of inquiry into participants' perceptions and experiences given freely and spontaneously articulated through semi-structured interviews or questionnaires, using **open-ended** questions.

As data was generated in this format, the responses were not grouped by pre-defined categories, but through meaningful categories. Relationships between categories were derived from the data itself through a process of inductive reasoning, known as coding. This was then integrated in a model to explain the social processes in Ghana and Nigeria.

This method involved breaking the data into discrete 'incidents' (Glaser and Strauss, 1967) or 'units' (Lincoln and Guba, 1985) and coding them into categories. These categories were generated in two different ways; participant led and researcher based categories. Firstly, categories that arise from the participants' own experience and language. This is used to conceptualise their experiences and world view" (Lincoln and Guba, 1985). Secondly, there are categories that were identified by the researcher as important to this research focus of enquiry with the objective to develop theoretical insights by developing themes which

“the process of comparative analysis stimulates thoughts that lead to both descriptive and explanatory categories’ (Lincoln and Guba, 1985). The categories underwent content and definition changes as units and incidents were compared and categorised, and as both the understanding of the categories properties and the relationship between categories were developed and refined over the course for the analytical process. Taylor and Bogdan (1984) recommends using this method as codes and analysis data can be done simultaneously to develop concepts; by continually comparing specific incidents in the data, concepts were refined, their properties identified, relationships to one another explored, and therefore integrated into a coherent explanatory model.

Braun and Clarke (2006) suggest a six-step approach, which consists of eight phases to conducting thematic analysis as highlighted in training materials of QDA Training (2015, Day 1 & 2) and depicted in Table 4.9. This six-step approach was applied to the selected data in this research accordingly.

** Please note that references to nodes and code are used*

interchangeably within this section.

Phase 1 Involves reading the data and noting down and initial ideas.

Phase 2 Using Nvivo, this Involved broad participant driven open coding of the

Interview transcripts recorded from the research study. Interesting features were coded in a systematic way across the entire dataset, highlighting all data that were relevant to each code (node). These codes were allocated clear labels and definitions to serve as basis for inclusions.

Phase 3 Codes identified in phase 2 were collated into categories of codes by gathering all data which were relevant to a potential theme and organising them into a framework that made sense for further analysis. This phase also included distilling, relabelling and merging common codes generated in phase 2 to ensure that the labels and definitions for inclusions accurately reflected the coded content.

Phase 4 Involved breaking down the restructured themes into further sub themes of 'coding on', to offer a greater understanding of the aspects under review such as similar and divergent views, attitudes, beliefs and behaviours in both countries coded to these categories. This was done to determine a clearer insight into the meanings contained within them

Phase 5 This phase involved data reduction by consolidating codes from the previous three coding cycles into more abstract, philosophical context and literature based codes to create

a final framework of themes for reporting the findings of the research.

Phase 6 Involved writing analytical memos against the higher-level themes to accurately capture and summarize the content of each category and its codes and purpose empirical findings against these categories. These memos considered the five key areas.

1. The content of the cluster of codes on which it was reporting (what was said)
2. The patterns where relevant (for example levels of coding)
3. The background of information recorded against participants and any patterns that existed in relation to participants' profile (who said it)
4. Situating the code(s) in the storyboard – i.e. evaluating the connectivity of the codes to each other, and their importance to addressing the research questions and sequencing disparate codes and clusters of codes into a story or narrative which is structured and can be expressed in the form of a coherent and cohesive chapter.
5. Primary sources were reviewed in the on text of relationships with the literature as well as identifying gaps in the literature.

Phase 7 this stage involved testing, validating and reviewing analytical memos to provide a self-audit of the proposed findings by searching for evidence in the data beyond textual quotes to support the stated findings; and seeking to expand on deeper meanings within the data.

This process involved interrogation of the data, not only drawing on relationships across and between categories, but also cross tabulation with demographics, observations and the literature. This phase resulted in evidence based findings, as each of the proposed findings had to be validated by being rooted within the data itself and relied on the creation of reports from the data to substantiate findings.

Phase 8 All memos were synthesised analytically into a coherent and well supported findings section.

Table 5.6 illustrates the links between the phases and the processes outlined above. These phases have been carried out using NVivo; using the guidelines as set out by Braun and Clarke (2006).

Braun and Clarke 's (2006) six steps approach to conducting thematic analysis is shown in the first column, while the second column demonstrates the corresponding application in NVivo. The third

column highlights the strategic elements of coding as the analysis process moved from initial participant led descriptive coding to the secondary coding which was more interpretative in nature; consequently, was both participant and researcher led, to the final abstraction to themes which was researcher only led. The fourth column illustrates the iterative nature of the tasks as the coding, analysis and reporting proceeds towards conclusion.

Analytical Process	Application in Nvivo	Strategic Objective	Recursive Process Throughout Analysis
Phase 1 Familiarizing self to data	Transcribing, reading and re-reading the data into the Nvivo data management tool.	Data Management (open and hierarchical coding through Nvivo)	Assigning data to refined concepts to portray meaning
Phase 2 Generating initial codes	Open coding – coding any relevant features of the data in a systematic fashion across the entire data set – as nodes; then collecting data relevant to each node.		Refining and distilling more abstract concepts
Phase 3 Searching for themes	Categorisation of Codes (nodes)– collating nodes into potential themes, gathering all data relevant to each potential themes		Assigning data to themes/concepts to portray meaning
Phase 4 Reviewing themes	Coding on – checking if the themes work in relation to the coded extracts (level 1) and the entire data set (level 2), generating a thematic ‘map’ of the analysis.	Descriptive Accounts (Reordering, ‘further coding’ and annotating through Nvivo)	Assigning meaning
Phase 5 Defining and naming themes	Data Reduction – on going analysis to refine the specifics of each theme and the overall story (storylines) the analysis tells, generating clear definitions and names for each theme.		Generating themes and concepts
Phase 6. Generating Analytical Memos 7. Testing and Validating 8. Synthesising Analytical Memos Producing the report	This is the final analysis process, where vivid and compelling extracts are related back to the research question and literature. Producing a scholarly report of the analysis.	Explanatory Accounts (Extrapolating deeper meaning, drafting summary statements and analytical memos through Nvivo)	

Table 5.6 Stages and Process involved in the qualitative analysis of this research – Adapted from Braun and Clarke (2006) and QDATraining Nvivo training materials and support from 2013 – 2016.

The problems with themes

The structuring of data meant that a comment could be included in more than one node, as a given narrative could manifest in more than one theme.

Considering that this fragmented way of analysing coherent, rich life history, narratives may make the extracts devoid of meaning. As a result, every extract will be reanalysed by going through the entire raw transcript and interpreting it in its context.

As part of the interpretative process the meaning of an extract could be deepened by interpreting it in relation to the narrative (Denzin, 2002). Problems in ensuring quality analysis can begin from the point of research design and data-making, through to the integration of data and when drawing sound conclusions (Bazeley, 2009).

Advantages of using the NVivo data analysis software:

An advantage of using data analysis software such as NVivo is that it is a well-recognised for organising data. An essential factor in choosing this software finding a tool that easily supports the analysis of findings yet leaving the researcher firmly in control as explained by Fielding and Lee (1998).

The software records data movements and coding patterns, and mapping of conceptual categories and thought progression; consequently, facilitates all stages of the analytical process, making it

more traceable and transparent. This helped to produce a more detailed and comprehensive audit trail.

Disadvantages of using the NVivo data analysis software:

The possible disadvantages of using data analysis software, are, the potential data loss, the large storage requirement for software and data, and over coding.

Data loss as a threat was addressed by regular backups of files, while over-coding was mitigated by following the analytical strategy prescribed by Braun and Clarke (2006).

Interpreting the Data

Once the data were gathered, reading and interpretation was a good starting point for meaningful analysis. It was useful to share some of the questionnaires and interview transcripts with a small group of fellow students, to help make sense of the various interviews conducted. This had the benefit of serving as a reality check on my own interpretation, but particularly prompted added awareness of dimensions in the data and fresh ideas, with new line of questioning to pursue. Distributing the questionnaires helped to restructure questions asked in the interview sessions where respondents struggled with answers.

Naming the Themes and Connecting Data

The essence of qualitative research is to go beyond 'how much' of something tells us about its essential qualities. Counting was an important element taken into consideration when judging the quality of assertions being made by respondents. When themes were identified, and occurrences counted; not only did it segregate things that had happened more frequently than others, but it highlighted how they happened consistently in specific ways. Consequently, some judgements were made based on the 'number of times' and 'consistency' in which they occur; giving some weight to the importance of the themes. This helped to keep an analytical focus and protect against bias. The frequencies of themes were extracted from the interviews conducted, the media reports as well as the case summation.

Units of Analysis

By using the same units of analysis, this helped to examine themes comparatively in relation to the frame or location of frame (country or location of crime) Then mistakes can be avoided and results can be described, interpreted and communicated in a deeper and more uniformed context. However, in some cases in Nigeria for instance, information on cases are not reported in a consistent manner. This issue was more related to low-profile cases.

To discuss findings throughout this thesis, the total number of complete and relevant responses for the questions being analysed was used to calculate percentages. Specifically, any blank responses or instances

where the participant indicated that he or she did not know the answer to a question will be stated as 'unknown'. The survey questions asked allowed for participants to give specific answers.

Data generated was analysed using NVivo. Views on occupational fraud was analysed to determine whether there were differences between Nigeria and Ghana respondents. Where views differed, it highlighted the cross-national differences in views on cultural and social factors in each nation probably play a role in shaping these views.

Data presentation

The results will be presented in tables and percentages, as well as in graphs and pie charts for easier understanding and to contextualise relativity in a more visual way.

Quotes from respondents were included in the research report by using "G" for Ghana or "N" for Nigeria, followed by a number as an identifier. The quotes were not inserted in numerical order but are positioned to drive pertinent points across.

It shows evidence of empirical data. Braun and Clarke (2006) as well as Trahan and Stewart (2013) stress that including quotes within the findings also provides evidence of the themes i.e. that the concepts captured are prevalent throughout the data set.

Data Interpretation

The interpretation of data was a very important stage in this research. Saunder et al. (2009) highlights this stage as a danger stage; where the greatest “logic leaps and false assumptions” can be made.

The data collected has been analysed using the various theories driving this study, for instance, the Elite theory as outlined in chapter 2 and 3.

Ensuring validity and reliability

Avoiding Bias

One weakness common to both corporate and occupational crime studies are the *use of observations restricted to a single period or judicial district*. To avoid bias in the analysis process, this research looks at a wide range of cases stemming over a 10year period; it also considers cases in multi judicial districts. For instance, in Nigeria, it looks at cases tried in Lagos and Abuja. By doing this, it is possible to capture how Occupational Fraud crimes varies across organisational settings, or how differences in individual characteristics contributed to distinct types of crime committed within the organisations.

To avoid some *researcher Coding bias*, I asked some research colleagues to recode some of the questionnaires. This was done not only to make sure data was correctly interpreted and coded, but also that nothing important was skipped.

By adopting a triangulation method, i.e. combining multiple respondents (in this case, the barristers, academics, analysts) theories, methods, and empirical materials, the research avoids the weakness or intrinsic biases and the problems that may come from a single method.

Replicability of study

Replicability in this study is demonstrated through stability and consistency of the way research instruments are administered to the population in each country thereby allowing for more confidence in the conclusion derived from the data gathered to be expressed.

The cases analysed in both countries are real life cases that have been collected from real sources. In Nigeria, information of the cases was picked out from a list reported on the EFCC's and ICPC's website. This list was also reported in their annual reports. These lists are easily traceable on their webpages (EFCC 2013; 2014). The cases can also be traced easily using their unique official case references provided in the appendix.

The Pilot Study

A pilot study was carried out October 2013 during a six week visit to Nigeria for a conference. I used this visit as an opportunity to study both countries. This visit also helped me to determine if the choice of area was a good one. I could see where most solicitors were situated, I also established new links and met new people.

The pilot study highlighted areas where interview questions are asked in such a way as to prompt superficial answers; which distorted meaningful analysis and caused further problems to arise at the stage where data was interpreted. This included the 'emergence' and naming of themes stage; where the integrating themes took place to provide a rich, deep understanding or a coordinated, explanatory model of what has been found.

ETHICAL CONSIDERATIONS

This research followed the guidelines given by the British Society of Criminology (BSC) and the ICJS Ethics Committee. Overall, keeping up-to-date and remaining in close contact with these bodies as well as current affairs will be crucial for this research.

It is important to note that a considerable amount of time was given to address all potential ethical issues that could have affected this research right from the design stage. This process was carefully considered, and not just based on jumping the bureaucratic hurdle of the ethics committee. Not all considerations could have been mitigated sufficiently in abstract or theoretical terms (Figuroa, 2000) as some criminology research can leave 'grey areas' as suggested by Martin (2000) in which a researcher discretion has to play a part. Consequently, I was prepared to make potential decisions in the context in which they emerged, informed by the support from the ICJS Ethical Review team at the University of Portsmouth as well as my supervisor. No unexpected ethical dilemma occurred.

To satisfy possible ethical concerns I explored the following three questions:

1. Does the data protection law cover public figures, like that in the UK?
2. Is the research bound by the laws in UK also? There were no specific data protection laws in Ghana and Nigeria however,

because the University of Portsmouth (in UK) supervised it the issues was still considered.

3. What is vital to the ethical consideration - the actual location of study or the location of the university supervising? Both played a part.

Data collection and access:

Firstly, issues in relation to data collection and access were addressed as there were concerns around data protection laws. The data extraction process was an essential stage in the research. In most cases the information needed could be retrieved from secondary sources without the need to access personal files. These secondary sources included law reports and cases summations that were accessed within various chambers, law libraries and the libraries or resource centres of the counter fraud agencies.

Ease of access to various data was different in both countries and depended on transparency, organization's structure and protocols. It was also dependent on contacts and who you know in key places. But I understood that failure to seek appropriate authorisation can lead to reputational damage to the university as well as damage the integrity of the research, so the appropriate authority from the heads of various organisations were always sought.

In Ghana, during this study period, citizens did not have the right to request public information from state bodies, but in February 2015, the

parliament had started to review the Right to Information Bill, which had been awaiting approval since 2007.

During my first visit, my questionnaires were distributed to EOCO staff after a written request was sent and a brief meeting with the assistant head of EOCO to discuss my request. Based on recommendations from contacts, the Law library was also a good place to gather case summaries and judgements. Using media reports, other internet sources and corroboration from interviews I could get other information to do with the individuals involved in my sample cases.

The Nigerian Freedom of Information Act, 2011 gives an individual the right to access public records. The Act also indicates that every citizen of Nigeria is permitted to have access to any records under the control of the government or public institution provided he applies for and has no specific interest to the information being applied for. This, I discovered was an impractical permit and subject to interpretation as it left scope for challenges or refusal by any one in control of a public organisation. Also, it can be argued that there will always be an interest when anyone applies for information. Ayode, 2011; Coker, 2011, like many, have stressed that virtually all government information in Nigeria is classified as top secret. Ayode (2011) of Media Rights Agenda (MRA), a Lagos-based Non-Governmental Organisation (NGO), says this veil of secrecy makes it difficult to get information from any state agency. A plethora of laws prevents civil servants from divulging official facts and figures, notably the Official Secrets Act which makes it an offence not only for

civil servants to give out government information but also for anyone to receive or reproduce such information. Further restrictions are contained in the Evidence Act, the Public Complaints Commission Act, the Statistics Act and the Criminal Code – amongst others. Adeleke (2011) says the idea behind these laws is to protect vital government information, but the level of secrecy is so unreasonable that some classified government files contain ordinary information like newspaper cuttings which are already in the public domain. So, impenetrable is the veil of secrecy that government departments withhold information from each other under the guise of official secrets legislation. There are also instances where civil servants refuse to give the National Assembly documentation. The government act is in line with worldwide press freedom norms in part, so it could to get money from organizations like the UK's Department for International Development (DFID), which, along with the Canadian International Development Agency, gave Nigeria funding to help implement its FOIA.

Consequently, the Nigerian Freedom of Information Act law did not make my research process any smoother as a citizen; neither did the official letters granting me permission. It became clear that in Nigeria, having the right and being able to claim that right manifests as two different things; almost an impossible task when the system in place frustrates the process and takes you through many hoops.

In Nigeria, there were challenges when it came to getting case details as per respondent's background information (i.e. gender, qualification, age; in EFCC and ICPC; though at the start of the research I was promised access to the EFCC's archives. Less so in ICPC. I found myself having to rewrite introduction letters addressed to various individuals within the same organization. I spent a whole week trying to establish where I could get background to case information, after receiving authority from the Head of Operations on the premise that majority of the high-profile cases were dealt with and stored at the head office in Abuja and I should get all information there. I was told the data should be recorded or stored in the Research department. However, the research department stressed that the level of information I needed should be with their Law department. At the Law department, various files were missing despite being cases dealt with in Abuja. I was passed back to the Research department where I was told they had just began carrying out an exercise to update their records but their system will only capture cases that date back to 2012.

Again, even though access was not overtly granted, the process of getting access to all the specific information was frustrating. Ibekwe (2013) captures this angst succinctly, saying:

"Above all, corruption is at the centre of officials' refusal to obey FOI requests,"
"If you have something to hide, would you be willing to allow a reporter access to information that might implicate you?"

Luckily because all the cases are high profile cases, they all feature in the media at some point and cited in law reports. The biography of the high profile individuals were also online, which often includes, age, educational background and employment history. The interviews with respondents corroborated this.

Mitigation process

All organisations were approached prior to any physical contact, by sending them a letter with an outline of this research proposal with a debrief letter; explaining why my research may be of interest and benefit to them. This letter was set out, clearly stating what type of access and information was required.

Before interviews were conducted and during the questionnaire distribution process, an information sheet was issued to all participants. Further confirmation was sought and recorded during the interview process to confirm that the participant not only understood the content of the debrief statement, but also that their participation was voluntary.

An acceptance letter was sought and given by the participants confirming their consent and willingness to take part in this study. A consent form was attached to the back of questionnaires. Where access was then granted to case files, all sensitive information was handled with great respect and treated confidentially and not disclosed outside with

friends or family; bearing in mind that I had been given a good level of trust to access that information. Additionally, only data relevant to my research was retrieved. This exercise raised concern when it came to accessing personal files; however, Carpenter (2014), Head of Ethics Committee, UOP advised that there was room for judgement if there were no laws to stop access to personal case files. This is therefore noted in the actual research findings along with an assertion that this may essentially be one of the reasons that corruption and fraudulent acts occur so easily. When compared to the United Kingdom, Carpenter (2014) asserts that the DPA applies to all in the UK, including the public bodies who can't hide behind it because the Freedom of Information Act also exists. So, in some circumstances individuals such as lawyers involved in cases can be compelled to reveal information - though this is not normally personal. Further to this, the general rule is that a researcher must obey the laws of the countries in which the research takes place - but if there is UK law which would add to the protection of research subjects it could be argued that people abroad should enjoy similar protection. I also sought extensive advice from Legal practitioners in these countries

The Ghanaian Parliament recently passed the Data Protection Bill into an Act to set out the rights and responsibilities of data controllers, data processors and data subjects in relation to personal data. The Act, which is awaiting presidential assent to be fully operational, is also intended to establish a Data Protection Commission. This will provide for the

protection of privacy relating to individuals including the process by which information is obtained, held, used or disclosed.

Another ethical consideration was the possibility of harmful information being disclosed during data collection processes as this could have jeopardised the validity of the research if there was awareness that laws were deliberately broken. A caveat statement was included within the document stating that in the case of serious risk or harm this will be overridden.

Data Analysis and dissemination:

Ethical issues relating to the interpretation of the data to provide an accurate account of the information was considered to determine an objective and non-biased research. Although not experienced in this research, but any attempt to control the outcome of the research would have been averted or disregarded. Equally, relationships that would have compromised objectivity or create a conflict of interest were also avoided.

This research followed a strict policy of non - disclosure of any information shared. Advance considerations were given to establish parameters of confidentiality and the possibility of any situation that could cause a breach of promise. King (2000) and Martin (2000) argue that confidentiality can never be '*absolute*' because criminology research can leave '*grey areas*' in which a researcher's discretion has to play a

part. There were no challenging scenarios faced to force a decision to breach confidentiality. As such, this research adopted the guidelines given by the British Society of Criminology (BSC) and ICJS Ethics Committee guidelines (both incorporate aspects of the UK Data Protection Act 1998 - DPA) in relation to data storage.

The research participants were therefore guaranteed confidentiality of their data in principle. In majority of cases, pseudonyms were used to maintain this privacy and confidentiality. Giving the participants the assurance that they will not be identified with any opinions expressed in questionnaires or interviews. This may have facilitated a higher response rate, increased honesty, ease of expressions and more open responses. However, stating the geographical position and status of participants was deemed important so that their opinions could be acceptable in the context of their role. Actual quotations were included to support various arguments within this thesis. Again, the anonymity of those interviewed were ensured by not naming the organisation whilst still providing sufficient contextual information. Any categorisation of actions were based on case accounts. All names were anonymised during the transcription to protect the identity of participants, in case of theft or loss of transcript, there was no risk of information that may make the participants identifiable. When transcribing the interviews, a code was used for participants (e.g. NGI-01) within the thesis document. Actual information about individuals was provided to the supervisory team for validation purposes when required to do so. Only one document had all the details of the actual participants.

To avoid loss of data (transcripts, questionnaires, consent forms, letters and other raw data) were bound and kept together. Care was also taken to store them physical away in University designated areas (Online storages space and Cupboard spaces provided by ICJS).

Also, a caveat statement was included within the document stating that

“... though the confidentiality and anonymity of respondents are respected, however in circumstances such as the following, this will be overridden:

- *Where there is risk to others*
- *Where there is risk to the participant(s) or researcher*
- *Where any information that may be detrimental to health and human rights will have to be disclosed to a relevant authority if need be. (The UOP Ethics Committee will be consulted initially)*
- *Where it is evident that a law has been broken*
- *Where there is any risk of reputational damage to the University of Portsmouth (UOP) or your organisation”.*

Data Storage issues, loss or damage to data was also considered:

All data and materials were kept safely and contained always; to avoid the need to disclose any materials to friends or relatives. Interview recordings were stored away on the university’s server space each day or as soon as interviews are over where possible; subject to internet

connections. Physical materials were kept in a secured case while abroad. Back in the UK, it was stored securely in lockers supplied by the ICJS department in the university. Details of participants, transcripts and consent letters were stored separately to avoid the possibility of documents being correlated if misplaced or stolen.

During this research, no coercive techniques was used on anyone who took part in this research. Adequate consent were sought and given in writing to certify each participant's voluntary participation in this study and the extent of their support. This was not a covert research and so there was no need for deception or for information to be withheld about the research. Consequently, following the guidelines prescribed by the BSA for Informed consent and voluntary participation in a research study, which is:

“as far as possible participation in sociological research should be based on the freely given informed consent of those studied. This implies a responsibility on the sociologist to explain as fully as possible, and in terms meaningful to participants, what the research is about, who is undertaking and financing it, why it is being undertaken, and how it is to be promoted”.

Empirical research such as Gans (1962) and Punch (1999) have argued that deceit is sometimes good because if a *“researcher is completely honest with people about his/her activities, they will try to hide actions and attitudes they consider undesirable, and so will be dishonest. Consequently, the researcher must be dishonest to get honest data”*.

The principle of informed consent is bound up to some extent with the issue of harm to participants. Erikson (1967) has argued that, if the principle is not followed and if participants are harmed because of the research, the researcher is more culpable than if they did not know. So, if the research ends up harming participants who agreed to act as subjects, one can argue that they knew something of the risks involved.

For this research, consent was therefore a paramount requirement from participants before proceeding to record (See appendices). Where any participants refused to be recorded, then handwritten notes were taken. Participants were still asked to sign a consent form which will be attached the questionnaires along with a 'debrief'. All participants were requested to state at the beginning of interviews that they were giving their consent for the interview to be recorded before-hand. Also, they were given a form to sign where possible. No financial or other material rewards were used to induce people to take part in this study as this could have led to a biased result.

The advantage of having such forms is that the respondents were fully informed of the nature of the research and the implications of their participation at the onset. Furthermore, the researcher has evidence; a signed record of consent if any concerns are subsequently raised by participants or others. However, Bryman (2008) stresses that the requirement to sign a form may prompt rather than alleviate concerns on the part of prospective participants, so that they end up declining to be involved. This was the case in some instances where even the evidence

of an approval letter from the head of department was not enough to create trust. But in hindsight, I realise this depended on the confidence and trust placed on the individual; the Head of the establishment. In institutions where people could easily get into trouble depending on which party they support many will be anxious.

Only two individuals requested a copy of their interview transcript, which I provided at a later date. This prompted me to ask the other interviewees if they would like a copy. Their responses were generally, “no...no need”. Sometimes consents were delayed where permission was sought from line managers. This meant additional time added to identify participant which was challenging where there were time constraints and pressures during travel period.

Although it was unlikely that participants in this type of study would be exposed to physical risks, any circumstance that would cause any distress or psychological harm was avoided. This included observing any major concerns or views of participants. This was not only important for ethical reasons, but also because participants could sue if they felt they had been harmed during the data gathering process of the research. Participants were also alerted of their right to check the accuracy of data held about them and correct any errors.

Where there was any information or conduct that could cause any reputational damage, this was covered with a caveat statement within all research correspondence and communication with respondents. These includes points such as those stated below:

“While I will do my best to keep the anonymity of participants, there may be times where this cannot be assured, such as:

- *Where there is risk to others.*
- *Where there is risk to participant(s.)*
- *Where any information that may be detrimental to health and human rights will be disclosed to a relevant authority if need be (The UOP Ethics Committee will be consulted initially).*
- *Where it is evident that a law has been broken*
- *Where there is any risk of reputational damage to the University of Portsmouth (UOP) or your organisation”.*

Physical Safety of Researcher and participants in both countries was a concern initially, as I was exposing myself to new situations in the sense that in most cases I met with people of whom I had no previous knowledge of or dealings with. In December 2013, the UOP’s international office confirmed that the study area is allowable and that it was okay to travel to the areas specified for this study. This helped to secure a favourable ethical decision for this research. See appendix.

There was always a contingency plan in place to use video conferencing instead of face to face interviews with participants in Nigeria where there was greater evidence of the treat of being kidnapped or affected by Bokoaram activities. Also, questionnaires could easily have been distributed through an email.

A great deal of care was taken to ensure that the full name, title and contact address of anyone visited was recorded; and my supervisor and family were notified beforehand. However, I was aware that while

abroad, there were *limitations* to the extent to which my supervisor could manage any physical and immediate risk, so family members or friends were always informed of my movements and appointments.

An attempt was always made to establish their credibility beforehand, by finding out if they were closely known to any colleague and checking with my original source for the contact. For the case analysis process in Ghana, I visited various public Law libraries (which were safe and well-structured). My visits were done during the day so that my safety was reasonably assured. Some libraries required bags to be left outside to avoid theft of library resources and for security reasons.

I had travelled extensively on numerous occasions within Nigeria over the past years. So, I was familiar with the culture, the language and any sensitivity issues relating to religion and cultures.

However, Ghana was a completely new territory to me. Ghana and Nigeria were both relatively safe except for areas disclosed by the Foreign Office as dangerous (Gov UK, 2013 to 2016). Both countries were very alert on crime and attacks. Consequently, most offices and public places had fully armed security officials checking individuals before they were allowed entry to various premises.

All firms and participants taking part in this study were all from reputable establishments. Having gained prior notification and agreements from their employers where need be (EFCC & EOCO) or themselves directly,

there was no reason to expect that any participants will be under any danger by participating in this research.

Participants from the EFCC and EOCO were bound by the rules of their engagement in these agencies. But prior to the research all necessary authorisation was put in place. In Ghana, I had no direct access into the EOCO building where the staffs were working except when I met with the Executive Chairman and Deputy of the EOCO to discuss my research plan. In Nigeria, I had access to only some areas where there was explicit authorisation given.

In Ghana, all research activities were conducted from Accra the capital city with assistance from the two host organisations – Economic and Organised Crime Office (EOCO) and Commission of Human Rights and Administrative Justice (CHRAJ).

In Nigeria, cases featured in the research took place in urban regions such as **Ilorin, Lagos, Abuja and Kano**. But all research activities were conducted from Abuja only, with no need for local travel to the other cities.

Health Risks taken into consideration

The “**Ebola**” virus discovered in 2014 raised cause for concern during this research’. The outbreak situation was dynamic, all travellers were advised to check the Foreign and Commonwealth Office (FCO) updates on a regular basis. Alternative ways to get information for this research were considered, but in the end not used. I kept abreast with all Risk Assessment reports issued by each country, World Health Organisation (WHO), and the Public Health Body in England via their various

websites. I proceed to travel with caution after getting full permission for my department.

Study Limitations

Some limitations and encounters posed a challenge in creating a picture-perfect situation where all processes and variables used were exactly the same in both countries, to compare like for like. What I therefore learnt at this stage of the journey, was to be flexible.

During interviews

The respondents' accuracy in recounting events was crucial to this study because they were targeted based on their direct involvement with fraud cases, and can reflect on the offences that were committed and process they endured. The interviews take place after the offences, consequently the process of recall is dependent on factors such as the interviewee's memories and the bearing this had on the accuracy of their accounts. Some respondents used facts, assertions, and aired their own opinions based on their experiences within the system. Ultimately, most of these are corroborated in the case reports analysed.

The extent to which the various counter fraud agencies were willing to help with all the information needed was also pivotal to this study. Obtaining information in both countries was rather tricky. This was

however expected being that they were government agencies constantly under criticism and scrutiny. Participants from the EFCC and EOCO were all subjected under the rules of their engagement in these agencies. Recorded interviews with their staff were prohibited therefore information received from the main agency in Ghana were mainly via questionnaires. EOCO in Ghana offered their assistance by allowing six of their prosecutors to fill in my questionnaires. The responses received were varied as some came back scantily filled and some well answered. In Nigeria, I was given assistance in accumulating some of the cases handled by the EFCC and ICPC via the reports printed by the agencies.

Access to case data: As stated earlier in this chapter, access was granted at the start of the research, but time constraints did not allow for questionnaires to be distributed in the Agencies during the planned period in Nigeria. During my second visit to Nigeria, there was a change in the administration and that meant a new process of applying to gain access to staff; which was not feasible given the time I had to spend searching for case materials.

I began a preliminary review of the listed convictions that were published on the websites of the agencies and in their Reports (EFCC, 2014b, 2013a; ICPC, 2015). I soon discovered that majority of the information published for the low-profile cases were inconsistent; various demographics were not always reported; case numbers were not always included; amounts involved in the case and key dates were omitted; and

the background of the cases were scantily summarised. Being low profile cases made it impossible to trace details online. This challenge became even clearer as I sat in the offices with various Administrative staff at the EFCC and ICPC, in Abuja on numerous occasions trying to gather information. The case references indicated in the report meant some of the cases were tried in other states and therefore any case information relating to that case, I was told will be in that state; and their systems were not linked. That was the Headquarters of the EFCC; I expected to get all information there. I was also directed to the Law department and the Research Centre. My efforts there were equally futile. Consequently, comparability, of some elements of the crimes were impossible in the low-profile case scenarios. Which was one of the reasons the research trajectory was changed. The cases involving high profile individuals received more media attention; so, a lot of the details were online or in law reports. The 'unknown' facts were a lot more in the low-profile cases reviewed as some of the information reported were often missing or inconsistent. Consequently, this was one of the compelling reasons the focus of this study was on High profile individuals.

Limitation and challenges from Questionnaires:

After the pilot study, some questions were rephrased for each group. The initial responses highlighted flaws in the way questions were asked in such a way as to avoid superficial answers. The use of specific language was important to get a point across. Some questions asked, led to some off-point/ distorted/ non-related/non-specific and generic responses. The superficial answers led to a distorted analysis as it was

difficult to establish true interpretation of data without the opportunity to discuss these responses again with the respondents. Consequently, it was difficult to generate and integrate the themes from a distorted context to provide a rich and deep understanding that converts into a meaningful picture.

The impersonal and non-interactive property of a questionnaire was also highlighted by this pilot. Sometimes responses opened lines of further lines of enquiry – further questions that could not be answered straightway. One respondent (G2) stressed that empirical data could not be referred to – but others gave a response. But what wasn't clear was if none existed or if the respondent just didn't have access or awareness of its existence.

Sometimes the respondent refused to answer a question and inserted an "N/A" response. This left a gap and so my own deductions were made as to why the question was unanswered especially when other respondents in the group attempted to give a response.

Scanty responses also left open the tendency for one to draw different conclusions. It would have been nice to probe for some elaborations on some points made. Or better still, examples of typicality. With questionnaires such as the EOCO's anonymously answered, it was impossible to go back and ask respondents to expand or clarify on certain interesting points that were made for example responses from:

G3

“Q9 Who are your typical perpetrator’s i.e. position, gender, average age, tenure, educational level, department, employment history, criminal background.

Response - All manner of persons”

This response was non-specific.

G3

Q15 Is the EOCO and other organisation doing their very best to eradicate this problem?

Response - Not as much as we would like to

Responses like this generated more unanswered questions in my mind. Why is this? This gives the impression that they are operating under certain constraints but the researcher cannot conclude on exactly what it is; as it could be financial, government powers over their decisions, staff constraints.

Another advantage of carrying out a pilot run, was that it allowed an opportunity to learn and readdress some questions in the questionnaire. This created a greater chance for receiving more meaningful responses. It was useful to go through each questionnaire and analyse individual responses; to highlight weaknesses in the way questions were phrased. I would have liked to explore the prospect of redistributing questionnaires to the agencies, with the opportunity to stand in the room and clarify questions given the type of responses I got from the questionnaires;

though this may have raised further issues and challenges of getting a truly anonymous response. Issues such as

- Should sheets be handed back or dropped into a sealed barrel?
- Should participants send typed responses to a printer? That way the printer does not record who sent it - no specific individual handwriting can be detected. This may have given respondents more confidence and perhaps more allowance to be open and honest with their responses if no document is saved. Doing it this way may also have given an opportunity for a closer connection with respondents. Remembering the process would have help during the analysis stage.

Discussion

This chapter explained and justified the research methodology used in this study. It described the processes of elimination of other research methods or strategies; also stating the factors that had influenced the choices and decisions that were made during the course of this research.

The next chapter discusses the empirical data i.e. the cases reviewed and the themes from the respondents used for this research. The summary of the findings are presented, starting with the types of Occupational Fraud crimes found in the case sample, the demographic distribution of the perpetrators.

CHAPTER 6

DISCUSSION OF FINDINGS IN GHANA

This chapter discusses the findings of this research with an attempt to illuminate the practice of, and barriers to, prosecution of large scale occupational fraud of those in senior public positions in Ghana. With a focus on the chosen sample of cases, it starts with discussions around the facets of the cases: this includes the types of occupational fraud cases, the demographic profiles of the perpetrators involved. It also explores the detection, investigation and prosecution processes.

The data collection process was conducted mostly during my visits to Ghana in 2013 and 2016. Secondary data from official reports and academic articles have also been used.

The findings are based primarily on 25 cases and interviews with 13 professionals, supplemented with six questionnaires filled in by the EOCO staff in Ghana. The cases are discussed using reference numbers. The respondents interviewed are designated a code which begins with G and then a number; where G stands for Ghanaian Interviewees. Where narratives cited are pertinent to a vital discussion, the time at which the statement was made during the interviews is also referenced. The classification of interviewee is also added to the reference. This would allow for ease of traceability and validation of comments. Also demonstrates evidence of empirical work.

Fraud types identified in High profile cases in Ghana

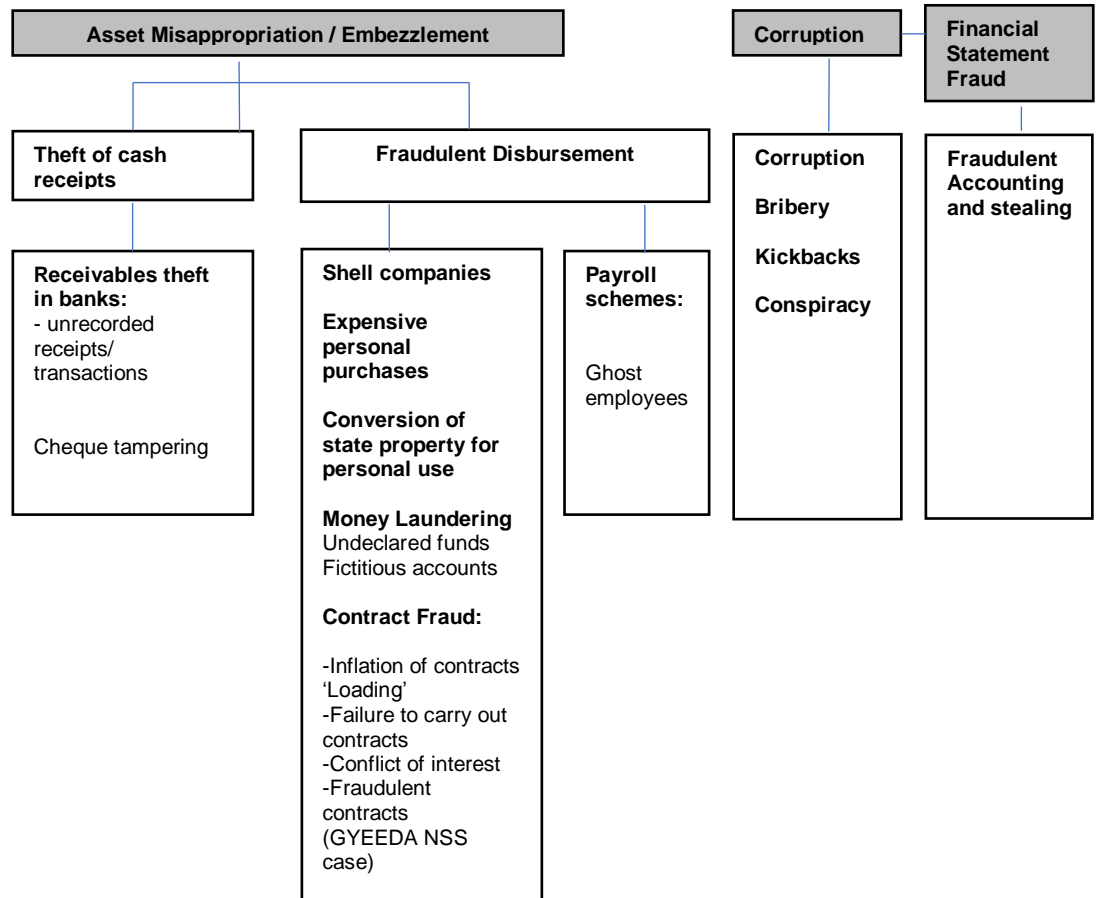


Fig 6.1. Occurrences in High Profile Cases reviewed in Ghana

Asset misappropriation

This research identified three distinct occupational fraud categories in the 25-case sample in Ghana. Many fraud cases involved more than one of these categories. Asset Misappropriation were the most common occurrences in the sample analysed; then Contract fraud which represented 32% of the cases. Corruption and conspiracy were also a common thread in majority of the cases analysed.

Asset Misappropriation typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Spending public money on extravagant hotel bills and on the renovation of her official residence amounting to; \$200,000 GH¢180,000	This case highlights a lack monitoring of government funds. Lack of control over authorising frivolous spends.
£32k Cash theft (Mallam Issah)	Lack of control over authorising large amounts.

Table 6.2 Typology of Asset Misappropriation in Ghana

One individual in the sample was accused of Fraudulent Disbursement; where *expensive transactions were carried out using public funds*. Madam Vivienne Lantey, a former Commissioner for Human Rights for Administrative Justice (CHRAJ) was investigated by a committee setup by the Chief Justice. She was removed from office by President John Mahama in accordance with Article 146(9) after accepting recommendations of the Committee. Her case was more precarious as she worked in an office set up to combat fraud and corruption. Issah had been given £32k in cash for a sports team and apparently claimed to have stored it in a brief case. He claimed to have lost the money in transit on a flight to deliver this cash.

Contract fraud cases

Contract fraud typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Contract figures increased 'loaded' by government ministers (Attivor)	Cost for project inflated
Contract figures increased 'loaded' by contractors with no prior agreement (CP, Quashie and others)	Documents signed by unauthorised officials. Contracts signed off with incorrect figures.
Contract figures increased 'loaded' where contract a is entered with a fraudulent company	Generator scandal. GOG ends up spending twice as much of government funds.
Illegal contract payments. (GYEEDA and SADA)	No official or legal contract to justify payments. *Poor control of payments.
Contract awarded to incompetent Companies. Includes elements of corruption.	The Brochure gate scandal led to many errors on an official document. No conclusion cited on the case as the minister remained in office.
Non-delivery of contract outcomes	SADA had awarded the contracts and could not show any delivered outcomes. Salormey – Project funds embezzled with an overseas consultant. Contract not delivered. *This is caused by poor governance arrangements and lack of monitoring by the awarding body.
Conflict of interest	Contract fulfilled by minister's private company.
Interest-free loans worth \$100 million to several private companies without parliamentary approval	Companies implicated had not been vetted or granted procurement rights.
Involvement of family members	Wife

Table 6.3 Contract fraud typology.

Contract "loading" or inflation of contracts is a term given where cost of contracts has been overstated knowingly or unknowingly. Elements of contract loading were present in four out of the eight contract fraud cases.

In the case against Construction Pioneers (CP) and the Ministry of Roads and Transport, a contract was entered in December, 1996 two days before the Presidential and Parliamentary elections of 1996. The Ghana Highway Authority (GHA) later discovered that CP had “loaded” or “padded” the rates negotiated in the initial contract; which increased the contract price by 44 million DM. CP had stated in their defence that the DM44 million represented a loss of profit to CP because the projects did not commence; these were the Yamoransa – Assin Praso and the Akim Area Roads Project. This loaded contract is what Dr. Ato Quarshie, the then sector Minister, signed. CP’s attention was drawn to this, and an agreement was reached that the “padded” rates should be unloaded from the contract price. According to an explanation given by the Director of CP, to the Investigation Team. The additional amounts CP had included were for "other legal claims". The investigators rejected this explanation stating that “there was no legal basis for that amount and it was simply a fraudulent act”. Dr. Ato Quarshie and others, Mr. Bernhard Ploetner and Mr. Robert Ploetner had organized the signing of the three contracts between themselves on 5 December 1996 in the absence of the usual key officials like the Chief Director of the Ministry, the Acting Chief Executive (Dev) of GHA, Director of Contracts (GHA). This was evidently perceived as an attempt to cover up their fraudulent act.

Ghana Youth and Entrepreneurship Development Agency (GYEEDA) was another case which involved contract fraud and corruption took place. President Mahama was forced to suspend the agency’s contracts, following exposures of fraud in various transactions. President Mahama,

gave directions to five different committees to review the allegations. By the end of 2014, the Economic and Organized Crime Office (EOCO) interrogated over 30 government officials, including current and past government ministers implicated in the scandal. Three companies made commitments to refund approximately 55 million Cedis to the government.

Another contract case (GC6), no official contract could be determined by the courts; but amounts had been paid by the government department. Salormey's accomplice had also billed the GoG with one University's letter headed sheet despite the university not being part of the contract. This issue was not questioned by the Finance department because payment was made to satisfy that request. The legal status of the company involved was also questioned.

A similar scandal in 2012 linked to corruption, the "Woyome Scandal," involved Alfred Woyome, who was arrested and charged with fraud in 2012, along with four others. They were all well-known and prominent supporters of Ghana's ruling National Democratic Congress (NDC). The case carried on for over a year. Alfred Agbesi Woyome was charged with crimes including corrupting public officials over a multimillion-dollar payment that a government inquiry alleged he had claimed illegally. The Chief attorney Samuel Nerquaye - Tetteh, his wife and the finance ministry's legal director were also charged with aiding and abetting a crime.

As a result of various contract frauds, President Mahama announced several proposals to address the controversy they raised; he pressed for the recovery of misappropriated funds; and the need for greater transparency and accountability. The Parliament passed the Public Procurement (Amendment) Bill in March 2016 to amend the Public Procurement Act, 2003 (Act 663) (PPA Ghana, 2016).

PAYROLL FRAUD SCHEMES

A payroll fraud typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Case trajectory	<p>Case commenced in 2014, 9 months after detection.</p> <p>Over 6 adjournments due to lack of witnesses and more investigations needed, though a 'Prima Facie case' has already been proven.</p>
<p>31,516 fictitious names added to payment vouchers.</p> <p>Ghost names posted to non-existent institutions and department.</p>	<p>Over 34 other NSS staff have now been firmly implicated in one pension fraud case, including the Executive Director Imoro, who is alleged to have generated the names (The Ghanaian Times, 2017).</p> <p>All regions in Ghana implicated in the scheme.</p> <p>Auditors were expected to vet all the accounts and payment vouchers and then pass on to Chief Accountant for payments.</p> <p>*This case highlighted poor governance arrangements in the government and lack of strict monitoring of government budgets.</p> <ul style="list-style-type: none"> - There were significant weaknesses in the internal control system, where there were numerous failures to follow administrative procedures - poor record-keeping practices and collusion among civil servants all Contributed to the payroll irregularities and fraud.
Span of fraud	All regions in Ghana involved

Table 6.4 Typology of a payroll fraud schemes.

This section examines another case from our Ghanaian sample, of one of Ghana's largest payroll fraud schemes involving the Ghanaian

National Service Secretariat (NSS). All graduates from Ghanaian tertiary institutions are required to complete a one-year national service. The NSS is the agency assigned to formulate policies and structures for national service and manage its processes. Every year at least 50,000 thousand graduates are posted to various sectors as service personnel and were paid monthly allowances determined by the Ministry of Finance throughout their service year. It was discovered that the former Director of the National Service Scheme (NSS) headquarters, Alhaji Alhassan Mohammed Imoro and several personnel at the NSS were involved in a fraud scheme from the month of September 2013 to July 2014. Over GH¢107 billion was stolen, belonging to the Government of Ghana through the payment of ghost or non-existent service personnel. The pay roll of the NSS was said to have been overstated by 31,516 names for the National Service Postings and the National Voluntary Service Recruitment. The case commenced in April 2015.

Discussing this case is particularly important because it helps illustrate how one fraud case can stretch across several regions. Diagram 6.3 shows the NSS's organizational structure and how individuals, at all levels of the organisation were said to be involved in this ghost name scam.

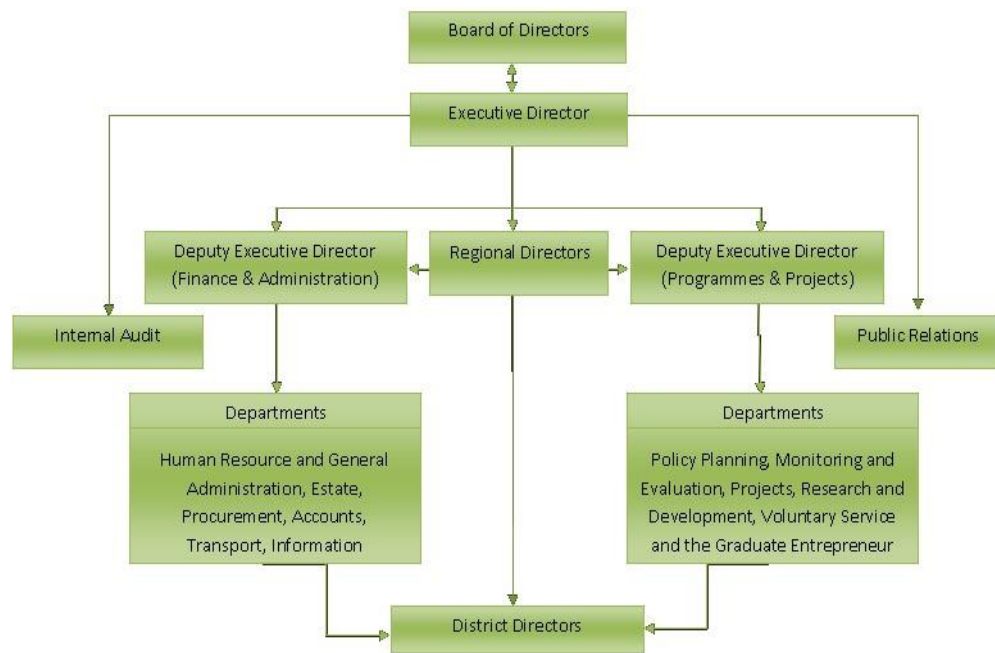


Figure 6.1 The organisational structure of the NSS

Figure 6.1 illustrates the structure of the NSS. Prosecutors in this case said the ghost names were generated at the NSS headquarters under the supervision of the former NSS Executive Director. The ghost names were detected in all the districts in the country where individuals were posted; mostly to the rural areas and in some cases to non-existent institutions and departments. Imoro, the Executive Director, gave instructions for the names to be added to the Payment Vouchers (PVs). The PVs were then distributed to the Regional Directors of the Scheme and when received, they also distributed to the District Directors under their jurisdiction. The ghost names were added to the genuine names on the nominal rolls based on which payment vouchers were prepared. The payment vouchers were prepared by the chief accountant, and passed on to the *Internal Auditor*. The auditor, who was supposed to audit and vet all the accounts and payment vouchers, did not do so and passed

them on to *the Chief Accountant*. The Auditor received regular payments from some regional directors for turning a blind eye.

The next stage, Imoro signed cheques for payments which were deposited in the banks of the districts where service persons withdrew their allowances. Imoro also issued instructions to the District Directors, through their Regional Directors, that after the allowances of the genuine service persons had been paid the money for the ghost names should be withdrawn and sent to him through the Regional Directors. Cleverly, Imoro never dealt directly with the district directors. The ghost' names were sent by Imoro to the regional directors with firm instructions on the monies to be paid to him every month. The number of names, the prosecutor claimed that Alhaji Imoro gave to each regional director depended on the loyalty and trust he had in them.

Since the case started, the BNI recovered GH¢30 million from 150 regional and district directors of the NSS who have all admitted their involvement and have promised to refund their share of the proceeds, except Alhaji Imoro, who has repeatedly denied any involvement. These payments partly satisfy their liabilities. The Executive Director has however not made any payment even though his liability has been made known to him.

The case had not yet been concluded as at the last research follow up in May 2017 due to several adjournments since 2014. Some of the reasons cited for the adjournments were the unavailability of key witnesses and the need for more extensive investigations. It is vital to

highlight how the Board also failed in its duty to monitor the activities of the organisation closely.

CORRUPTION SCHEMES

Bribery

The bridge-building firm, *Mabey and Johnson* case, was the first major British company to be convicted of foreign bribery. Many of its contracts were financially supported by the British taxpayer. A string of foreign politicians and officials were named as having received corrupt payments from the company. The investigations found that the company had systematically paid bribes around the world to win contracts. Ministers and officials in Angola, Bangladesh, Ghana, Madagascar, Mozambique, and Jamaica were implicated. John Hardy QC for the SFO said the company paid “a wide-ranging series of bribes” totalling £470,000 to politicians and officials in Ghana. Monies traced to Ato Qarshie (former roads minister) amounted to £55,000, Saddique Boniface (minister of works) £25,500, Amadu Seidu (former deputy roads minister) £10,000, Edward Lord-Attivor (chairman inter-city transport corp.) £10,000, Dr George Sepah-Yankey (health minister) £15,000. The firm was ordered to pay more than £6.5m, including fines and reparations to foreign governments.

The case of a Director of the National Service Scheme (NSS) also had elements of bribery; where the past Head of NSS, was said to have on

two occasions (between August 01 to September 26, 2014) given GH¢ 25,000 (£4,472) and GH¢ 15,000 (£2,683) to one Charles Kipo, of the Bureau of National Investigation (BNI) Investigations, to influence him and the prosecution process.

Together, the cases described so far drive home the issues of lax financial control over the government's budgets. The complexity of some cases has been described where cases span across the regions of Ghana, consequently causing challenges for the investigating team or agency.

The next section evaluates the amounts involved in these cases and the demographics of perpetrators involved in these cases.

Amounts involved

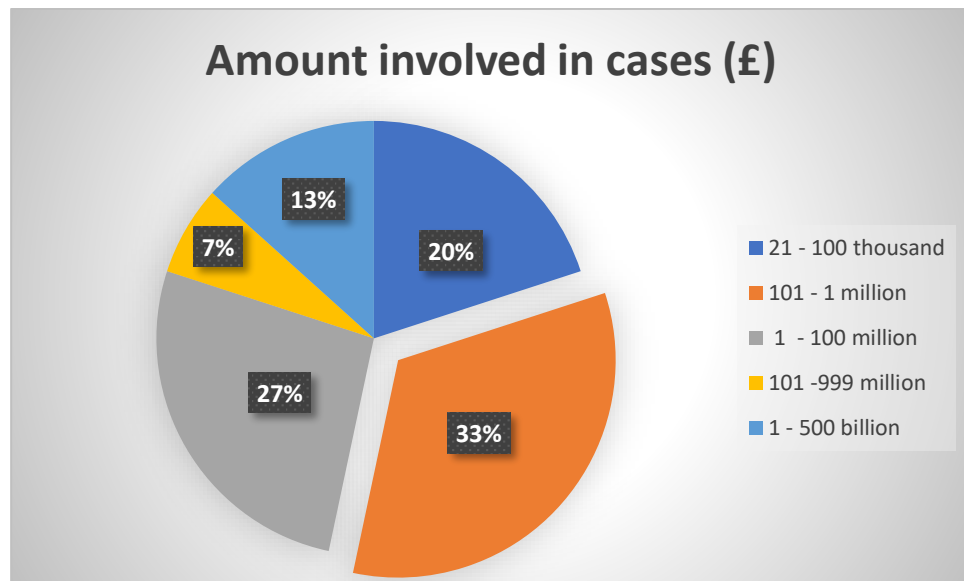


Figure 6.2 Aggregate amounts of money involved fraud cases in Ghana

Figure 6.2 illustrates the aggregate sums of money involved in the cases analysed in Ghana. The highest amount was £450 billion, a contract fraud between CP and the GOG. The contractors were alleged to have "loaded" the contracts without the approval of the designated officials. The rates in contract were inflated.

The second highest loss to the state was caused by the 'Generator Scandal' involving the energy minister was also a case where the contract figures were said to have been inflated.

Demographic analysis of perpetrators in Ghana

Previous scholarship alludes the premise that White collar crimes are committed mainly by males because women are more likely to have lower status occupation.

GENDER OF PERPETRATORS

	High profile
Female	3
Female & Male	3/3
Male	19

Table 6.5. Gender split of high-profile cases in Ghana.

80% of the cases in the reviewed cases were male dominated. One case however stood out; the rice fraud case (GC21), the main perpetrator was a woman. Three cases in this sample involved women acting on their own. Lantey, the previous Commissioner of CHRAJ was charged with using the organisation's budget for her personal use. Attivor, a Transport minister, overstated a contract budget. These women were both forced to resign. Other cases involved mixed gender, such as the GYEEDA case; six men and one woman. The NSS case involved 13 females out of 163 staff. 35 out of 163 offered guilty pleas under the provisions outlined in the Section 35 Court Act 1993. 4 out of the 35 were women; but the main instigators in the NSS case were male. In another mixed

gender case involving the bribery of many judges two out of twenty of them were females.

Majority of the respondents agreed that high profile cases are mostly committed by men; where sometimes women are involved and a go-between or courier but hardly as the instigator or leader.

Position in Office

Assertions from previous research assume that the typical White-Collar offender have higher levels of qualifications (Wheeler et.al., 1988; Benson and Moore, 1992). There were no significant differences between the offenders and the type of fraud committed. 21 out of the 25 cases reviewed involved a government minister. Four other cases involved parliamentary candidates and the Judges. The positions here were analysed using the principle instigator in each case. They were all highly qualified individuals; one PhD and others with Masters and Professional qualifications. Although, the ratio of women to men in this study are not proportionate, there were no gender disparity in this sample, as the women were also highly educated.

Age

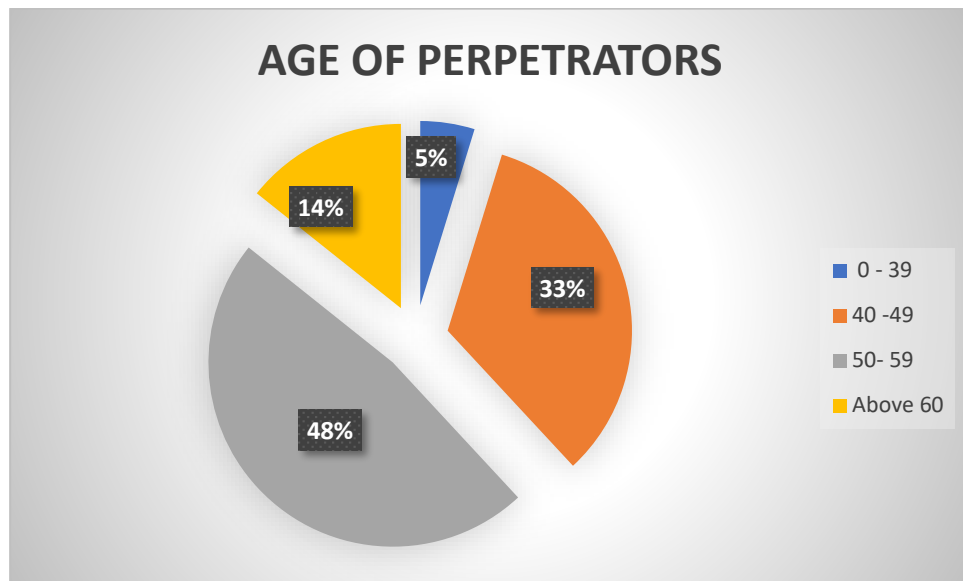


Figure 6.3. Age of perpetrators

This analysis of cases in this study conforms to various White-collar literature that have suggested that White-collar offenders are more likely to be 40 on average (Wheeler et al. 1998; Holtfreter, 2005).

Based on the sample of cases reviewed in Ghana, 33% of perpetrators were aged between 40 and 49. While 48% of the perpetrators fell between the 50 – 59 age distribution brackets.

Detection of fraud schemes in Ghana

One major detection source for high profile fraud is through the Auditor General's report. Auditors are sent around to almost every organisation and public offices in Ghana to carry out an audit and they come up with their findings. For the Oil and Gas sector, the major source is the PIAC report.

Some pressure groups (NGOs) such as, the Progressive Nationalists Forum (PNF), IMANI, SEND Ghana, ACEP and KITE, were responsible for raising awareness and submitted petitions on 20% of suspected fraud cases in this study's sample. They monitor suspicious issues in various sectors. They carry out private investigations and use the media as a platform to inform the public and generate support. Their reports are also taken directly to the agencies or the government to challenge them on their policies and governance. The NGOs also face challenges, when investigating these issues because the organisations being scrutinized are not under any legal obligation to disclose any information to the public. So often they are forced to use contacts within these organisations to help gather relevant data.

30% cases started off when investigative journalists brought them to the public's attention and then the organisation is forced to act or be seen to act and investigate in some cases that have not been concluded. The Misappropriation of public funds in the GYEEDA case was first detected by a broadcast media investigative Journalist with Joy FM, a local radio station. Who as reported, enlisted the help of an insider to get information. Mr. Manasseh Azure Awuni's discovery had passed through four other review stages and before it was referred to the court. Awuni initially raised concerns at GYEEDA, subsequently, an investigation by a committee that was set-up by Mr. Abuga Pele, the then National Coordinator of GYEEDA began. Based on the findings of the

committee's Investigation, Mr. Pele informed the sector's Minister for Youth and Sports, Mr. Clement Kofi Humado.

Mr. Humado later invited the National Security office to carry out further investigations. The National Security conducted their investigations into the alleged malpractices at GYEEDA. This Investigation was allegedly completed on June 7, 2012. When a new minister for Youth and Sports was elected; Mr. Elvis Afriyie Ankrah, a new investigative committee was created. After 12 weeks of work, the report resulting from the fourth Investigation was finally presented to the President.

But the President gave further instructions to a Senior Presidential Advisor to lead another team to review and report on the last Investigation (i.e. the fourth report as though to question its content). A fifth Investigation process was commenced.

Private detectives like "Anas Aremeyaw Anas" also exist and recently exposed a few corrupt judges. He handed over nearly 500 hours of video evidence on tape to the chief justice in August 2015 as well as compiling a three-hour documentary which was released in several cinemas across Ghana to expose the corrupt practices (Darko, 2015a, b, c). The film - *Ghana in the eyes of God; Epic of Injustice* was first shown in the capital, Accra, and was later screened for free across the country. Mr Anas had opted for public screenings rather than a television broadcast because media companies had been threatened with legal action if they showed it. It was claimed that Anas had wanted as many people as possible to see the work because he believed "justice is for the people,

let them see what justice means in this country" (Darko, 2015a). This was after a two-year undercover investigation, where Mr Anas had acted as the intermediaries in most cases, posing as relatives or friends of those in court. Some of the judges implicated in his documentary argued that Anas had prejudiced their cases by screening his allegations in public. They sought to charge him for contempt of court, but the attorney general granted him immunity from prosecution. He has also been known for exposing corruption in the police and malpractice in a food processing plant. He continues to maintain an elusive image and no one knows of his true-identity as his investigative work has uncovered the unscrupulous deeds of many high-profile individuals; consequently, leaving him in a very precarious situation where his life could be in danger any time. Many claim he is protected. But for how long, remains unknown.

Another scandal that was exposed, through an investigative journalist is the National Service Scheme (NSS) case.

Majority of respondents confirmed that Occupational Fraud cases were discovered through an informants or investigative journalist [G2: *Prosecutor*]. Others cited, intelligence, public complaints and Annual financial or audit reports [G1; G4: *Prosecutors*].

"They are detected first by insiders who are prepared to blow the whistle. The organisation can also be broken without a known reason. It brings about suspicion and therefore investigation. For instance, if it

is an airline business, there could be a time when aviation fuel can even be a problem. That raises suspicion and concern to investigate” [G2: Prosecutor].

Some respondent cited that there was very little protection out there for whistle blowers even though the Whistleblower Act exists:

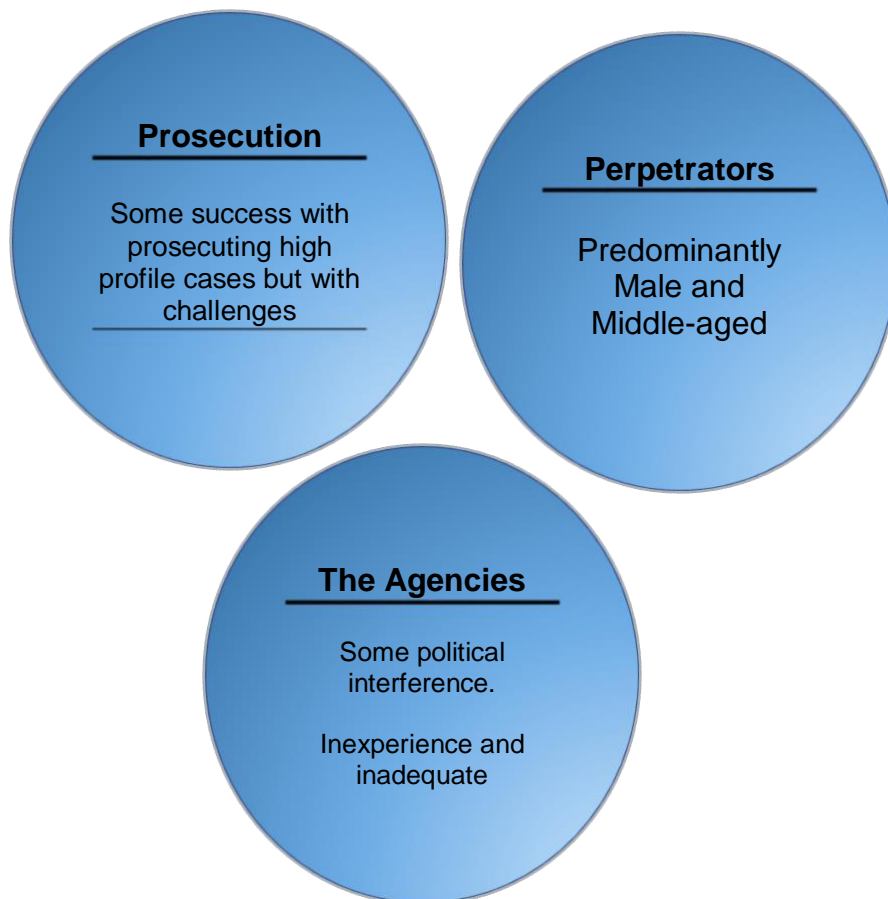
“I think what needs to be done is enhancing incentives and beefing up protection for the potential whistle blower to encourage more informant to come out to expose criminals. We need to sensitize people about the Whistleblowers law and be more serious in its implementation” [G2: Prosecutor].

“NO... you can't force them...and unfortunately, too we don't have the right to information ... But the Bill has been in Parliament for more than 10 years. So, what you can do is to probably use your connections ... err to get the information – contract and many other things so you can do your analysis. So, you rely on personal contacts” [G10, 20:00: NGO].

Barriers to effective prosecution in reviewed cases

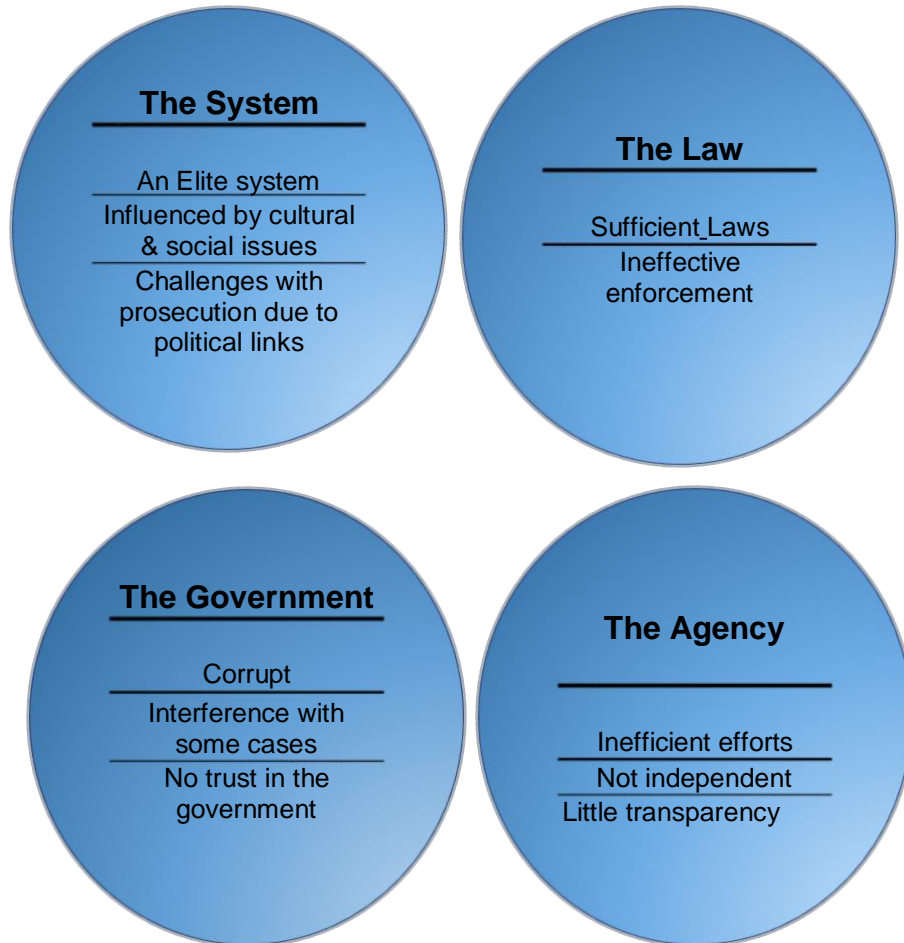
The preceding section of this chapter gives an indication of the challenges before a case gets to the prosecution stage. Using extracts from the interviews and information gleaned from the cases, this section summarizes the themes derived and then discusses the challenges faced when the prosecution process of the cases commenced.

Figure 6.4. Themes derived from the review of cases in Ghana



Results from the interviews in Ghana

Figure 6.5. Themes derived from the Interviews with Defence and Prosecution Lawyers in Ghana:



Reasons for challenges	Number of Respondents Mentioning items
Deliberate delays during prosecution	12
Political will and interference	16
Cultural Issues	15
Prosecution's hesitance leads to loss of evidence	10
Training needed and inadequate resources	13
Corruption	13
Challenges with witnesses	10

Table 6.6. Respondent's views on prosecution challenges
Source: Nvivo coding

The Laws

Chapter four examined the many substantive laws in Ghana used to prosecute Occupational Fraud cases. Having read through a number of case judgements, it is possible to see how the judges came to their judgements when cases are concluded by applying lessons drawn from earlier cases.

The Laws in Ghana as cited in case summations and are often sufficient to prosecute, however, the defence lawyers sometimes provide insufficient evidence to allow for these laws to be applied and a case successfully proven. One judge noted this in his summation of one particular case, that the reasons why cases fail was because they are either rushed through for prosecution or inexperience lawyers are sent to court to handle the cases.

Though the laws are deemed sufficient by majority of the respondents interviewed. Some, however, assert that the system as it stands has gaps that needs to be reformed.

Legislations so far enacted by government so far to me are adequate enough to uncover more frauds. However, enforcement agencies who have been entrusted with these laws are to be proactive in handling such cases” [G6: Prosecutor].

“We have very beautiful laws; almost every law we have something in Ghana. What I believe is that we have to implement them and also punish” [G10: NGO].

“EOCO by itself cannot eradicate the problem. It requires the support and cooperation of civil society groups, the media and other law enforcement agencies” [G4: Prosecutor].

“... So, in terms of implementations, arrest, questioning and investigating I think we are trying. What is left is the punishment, the sanctions to deter people from doing it” [G10, 13:53: NGO].

Prolonged procedures

GYEEDA was a classic example where five different reports and analysis was carried out to review the malpractices of the ministry. Though the government were seen to support the case going to court and justice done; their actions through directives suggested otherwise. After three government owned institutions had carried out extensive investigations and presented a report; more importantly one took twelve weeks. Despite that, President Mahama directed for another review and another report. Critics claim that all that needed to be done was to

establish a prima facie case (Adu, 2013). None of the earlier reports were made public which led some to believe that there were some cover up actions taking place in the background (Adu, 2013; G10: NGO).

But delays occur when the prosecution team are trying to gather evidence from the companies involved.

Delays by institutions/companies in forwarding documentary evidence for completion of Investigation calls for some token to be given to insiders to provide prompt information [G6: Prosecutor].

Political interferences

There are Political interferences when cases are going through court or [a perpetrator's connection in the society](#) is one challenge that resonates from various media publications. They were referred to as “Politically Exposed Persons (PEPS)” [G1]. Various utterances from the interviews and comments from the past Attorney General helps to substantiate this claim.

Former Attorney General, Martin Amidu claimed that government was deliberately dragging its feet in retrieving the GHC51million (£9million) of the judgment debt because it is involved in the Woyome scandal; which is said to be one of the worst financial scandal in Ghana (Amidu, 2016). Further to this he has alleged that the current Attorney General (AG), Marietta Brew Appiah Oppong, withdrew her application to examine the businessman, Alfred Agbesi Woyome over the Ghc51

million judgement debt because President Mahama personally gave an order (CitiFM, 2016).

More precarious situations occur when cases are reviewed and decided upon after a *'closed door'* examination. In the case involving Dr Ato Quashie, a former Minister of Roads and Highways and the Danish Company, CP, despite the SFO's investigations and damning findings that a fraudulent act had been committed, the full costs of the contracts were paid to CP by the Ghanaian Government and charges were dropped or ignored. The enquiry into the case started in 2002 and concluded 2012. After a report was finalised by the SFO of its findings implicating all involved, it later made a complete U-turn from its initial stance in 2009. The public were convinced of the President's knowledge of the payment of the €2.25 trillion to CP and the circumstances surrounding it because it is impossible for the Minister of Finance to act on his own and pay out such a huge amount from the Consolidated Fund to CP without President Mills' knowledge and approval, since there is no provision for it in the budget of any government Ministry Department and Agencies (MDA). It would only suggest that the President is not in control. The Government of Ghana (GoG) in 2007 consequently filed an application to discontinue the Biriwa, Takoradi Road Project (BTRP) awards. Many questioned the then Attorney-General's action, Mrs Betty Mould-Iddrisu and the NDC government's reasoning behind not seeing this matter to a logical conclusion, and why they had rushed to settle.

The Woyome's case started in 2010 and ended on March 12, 2015 when Woyome was acquitted and discharged by the High Court, presided over by Justice John Ajet-Nasam, on the two counts presented to the courts i.e. defrauding by false pretence and causing financial loss to the state. Justice Nasam was one of the corrupt High Court judges exposed by an investigative journalist Anans Aremeyaw Anas in 2015. The state therefore filed a notice of appeal after Woyome's acquittal saying the trial judge erred and requested that the judgment be set aside. This was agreed and the case was adjourned. But just before a sitting, Amidu (2016b) proclaimed that President John Dramani Mahama gave the order for the Attorney General to withdraw her application to examine Mr Woyome over the Ghc51 million judgment debt. The reason given was the fear that the embattled NDC financier would carry out his threats to disclose names of high ranking functionaries of his party and government who financially benefitted from the money that was fraudulently paid out.

The past Attorney General for Ghana recently commented on the Woyome case:

"The NDC government through the Attorney General is itself guilty of paying the money and that is why they should retrieve the money but they are not trying to do so because they are interested party. The facts are in my affidavits, the full affidavit is posted on my website. I have sworn to it...I'm going to meet them in court on the 10th November. If they want oral evidence it will be adduced, so I don't want the government representative to question my integrity on phone. He should not misrepresent the facts, yes the contract was done in April 2008 during the NPP regime, but the NPP didn't pay any money to

Woyome; Woyome couldn't get them to pay so he waited until when they were out of power he said he was an NDC financier he went and colluded with the government and the government looted out money, GHc51 million and gave it to him" (Amidu, 2016).

Political involvement in cases was the most cited challenge faced by respondents. Surprisingly, two out of six prosecutor's remarks alluded to this factor [G6; G1]. The respondents claim that before the cases get to court, *political influences often slow down the investigative stage:*

And you've had instances where it's like you will see that the investigations more or less are skewed in a way that is always shielding a political appointees or governing party appointees. And recently one of our....is it this week or last week where a former Attorney General Martin Amidu issued a statement on Sunday evening so it was in the papers by Tuesday, where he said that Ghanaians must rise up and make sure that corrupt governing party associates are prosecuted so that at least it would serve a signal.

The most recent case that is all over is the Woyome case. The former Attorney general adduced evidence – to the fact that this man was corrupt. He had earned the money from his contract wrongly and that he (the Attorney General) needed to prosecute. Even his deputy at the time who is now the deputy speaker of parliament and other government appointees, including top civil servants should have been prosecuted because there was evidence of collusion to cheat the state and they didn't.

But the moment he was pursuing that path he was dropped as minister [G8, 10:00: Media].

The consequence of this sort of any delay may lead to evidence being tampered with, the respondent who is a journalist explained. He gave an example of a recent text he got from an individual he works with, who

was trying to help him carry out some investigation about a company called SUBA after a tipoff. The text from informant read as follows:

“the guy says he can’t find any info on the system; but he is trying a different approach tomorrow. I will get back to you by 2pm Ghana time. I don’t want to believe that they have tampered with the server there” ... the respondent sighed and gestured as he said, “Ghana for you!” [G8: Media].

For these same political reasons, when individuals are sentenced, the sanctions are not seen to be carried out effectively, as per some comments from respondents.

“... he (referring to Alfred Woyome) has paid only 4mililon out of 51 million. And he is paying without any interest. The assumption is that Woyome is one of the biggest financiers of the ruling party” [G10: NGO].

“In Ghana, political manipulation in the work of law enforcement agencies is not impossible. It is therefore difficult for institutions to evolve their autonomy. The result affects the judicial system” [G2: Prosecutor].

Majority of the respondents proclaimed that the high-profile cases do not seem to get to a conclusive stage and suggested this may be contributing to the frequency of occurrence of Occupational Fraud. Citing cases such as the Quashie, Woyome, some respondents argue that the government’s actions were rather suspicious and did not serve the interest of the masses but rather only the people who did the negotiation to settle. Respondents’ comments further suggest that the high-profile

cases seem to be deliberately stalled. Also, cases where individuals are linked to a high-profile family member, disappear and remain obscure until someone demands clearer answers or conclusions.

“... It is increasing because, the major issues are that most of those who are caught are not punished. And recently, almost every year we have Public Accounts Committee, Environment house. They will sit down and look at the Auditor General’s Report. And you see so many fraud cases. Even if you check it now, it is published on their website. They will call individuals and they will just come and beg. Then you will not hear anything from the case. But at times people will tell you that this happened. Yes, money was allocated to the district assembly and I used it for my mother’s funeral ... ehmm forgive me and that will be the end” [G10].

“Ghanaians should be sensitised on the effects of fraud and corruption and to discard the notion that “everybody chops from his workplace” It is important to apply sterner punishment to people who are found culpable to deter prospective ones.”

“People’s whose work it is to deal with money like accountants and bursars etc. must be motivated to enable them resist the temptation to steal from government kitty. Ample punishment be mete out to them when found culpable” [G2].

But hope of any form of success is summarized by the voice of one respondent who holds the support of the government accountable:

The political will and commitment of government and opinion leaders are very crucial in prosecuting or investigating suspect(s) politically or culturally [G6].

Resources

Lack of resources were cited as a challenge in most cases. Majority of the donor support are ring fence to cover only some key staff costs. Based on limited funds not all cases benefit from enough funds to cover expert's contribution, therefore making it difficult to prove guilt. The perpetrator escapes prosecution when this happens. One respondent tried to explain the demand and impact of fraud cases on the Crown Prosecution Unit (CPU). As observed during my visit, the cases brought before the CPU often involve huge volumes of paper work to go through as well as evidences relating to them. Some cases also require electronic evidences to be generated and presented to the courts in a way that the court finds clear enough to be admissible as evidence, to support a case.

Accepted norms

Comments from a respondent about Madam Vivienne Lantey, indicate how the process of occupational fraud can easily be defined or misconstrued as a normal process in office in Ghana unless flagged up. This became apparent while discussing a case in 2015, involving. But some respondents did not see this act as a blatant misuse of office. One respondent said:

“Actually, it was a matter of ehmm... value for money not so much of fraud. I mean we have government bank rules. Now she decided to use state funds to go and stay in some very expensive hotels. With her family and she was spending about \$180k on the rent. So, in 2015 she was sacked” [G10: NGO].

Corruption within the judiciary

The scale of the corruption problem within the Judiciary came to light in September 2015 when a documentary by local investigative journalist Anas Aremeyaw Anas showed hours of video and audio footage revealing judges and magistrates accepting bribes to influence their decisions in court. A thorough investigation was carried out into allegations of corruption in the judiciary, where a journalist “Anas” revealed video evidence showing judges demanding bribes and sex to influence judgements in court cases. Some of the raw footage allegedly showed judges and court workers taking bribes from litigants, as well as some demanding sex, to manipulate justice. The chief justice launched an investigation into the 22 lower court judges, and 12 high court judges. The judges involved were initially suspended while the investigations took place. 20 judges were later sacked in December 2015. The chief justice reassured the public that the judicial council, the regulatory body for judges, would take "prompt and resolute" action to "redeem" the image of the judiciary (BBC, 2015a).

The responses from respondents confirms that corruption takes place within the judiciary and influences the way cases play out in court. Such frustrations are shared by many as the Woyome’s case started since 2010. Then on March 12, 2015 Woyome was acquitted and discharged by the High Court. Several respondents confirmed that the allegations of corruption in Ghana’s judiciary is also one of the significant problems facing Ghana and are not unusual.

“The Woyome’s case started as far back as 2010 ... And we’re still on it. Goes to court they come back. Goes to court they come back? So, it normally takes time. But the ending is that normally if it a fraud case involving a normal/ordinary person... probably he stole cassava or he stole plantain from somebody. They will give you...I mean the judgement is quickly done. I mean. Its quickly done at times you don’t even know. But when it involves some of these highly-connected individuals then it becomes a major issue” [G10, 17:23: NGO].

Other frustrations include:

“The tendencies for dockets to disappear from the court and the failure of judges to give sentences that should deter others and make the members of the public to appreciate the effects of fraud on the public conscience and the public purse” [G4: Prosecutor].

Poverty

Poverty has also been cited as facilitating fraud. Woyome for instance, allegedly shared money to many who became his supporters during his trial.

Woyome ...shared money with so many people and when they arrested him they came to do demonstration [G10: NGO].

Culturally challenges

Culturally challenges were another challenge cited where individuals felt they would be betraying a family member or friend by getting involved as

a witness in a case to testify against a perpetrator. Some may suffer direct pressure from family members and religious figures.

“Impact of extended family system and Religious affiliation” [G1: Prosecutor].

“Our culture in Ghana does not make one comfortable to give out or “betray” a criminal. This makes investigations difficult as people tend to harbour criminals instead of being of help to law enforcement agencies” [G2: Prosecutor].

Challenges with witnesses

Challenges with witnesses also plays a role and often leads to the delay of court processes. For instance, in the case of the NSS officials, which started in April 2015; it had many adjournments because of the unavailability of the main prosecution witness, one of the former NSS Director, Kpessa Whyte, who had been testifying in the case. All the accused were given bail; the highest being of the main culprit, Imoro’s bail term was for GHC 90 million cedis. When Whyte finally took part in the most recent case proceedings, he cited his inability to prove any of his assertions, as the evidence may no longer exist and he would not have access to any official documents because his contract had been terminated (Whyte, 2017).

In Salormey’s case his accomplice failed to attend any court proceedings.

The level of cost involved in managing witnesses cannot be gauged or anticipated where prosecutors have cited they have to travel to meet informants or offer them refreshments as they speak about how they can support a case with the information they have:

“Travelling to meet incapable witness for information or inviting informants to restaurant or drinking spots” [G6].

Safety of prosecutors, Victimization and Stereotyping

The response from one prosecutor cited victimization by members of the public and being hounded continuously by the press before the cases are concluded [G4: Prosecutor].

Plea bargaining

Plea bargaining as discussed with some respondent raised with some contention. Some believed it was working and others cited a need for a more open system.

“We only need men and women of integrity and honesty to undertake the plea bargaining. We need to inculcate the spirit of nationalism in our people to lift high the interest of the nation instead of being selfish. The system and process must also be transparent to avoid corruption since the system is risky with criminally minded people”
[G2: Prosecutor].

“I think the plea-bargaining system in Ghana may in a way enable prompt issues to be disposed of in Ghana, it requires people who are honest and firm or else, it would be abused in favour of government officials (corruption)” [G6, Prosecutor].

The Agencies

Some evidence from the interviews and questionnaires distributed, indicates that a good deal of thought process come into play before cases are reviewed by the EOCO and taken to court. The EOCO respondents confirm that due processes are often followed.

“Before investigation starts, there should be an informant or whistle-blower to point out that some crime has happened or is happening. Evidence gathering then comes in and this determines whether the case is worth investigating. If yes, investigation begins on a larger scale” [G2: Prosecutor].

“The judicial system allows an investigation to detain a suspect of fraud for 48hrs. From my experience, this is one thing that suspects fear. But it allows the investigator to do preliminary investigation to gather evidence that otherwise would have been prevented or disturbed by the suspect. In the bail process, the investigator is permitted to assess the cost of money involved for the bailer to commit himself /herself in the event that the culprit absconds. This is important is that the bailer ensures that the fraudster does not jump bail to jeopardise his fortunes” [G2: Prosecutor].

However, the agencies are also perceived as not independent because their officials are appointed by the ruling party.

“Yes, I mean the heads are appointed by the politicians. Most of the people there. So, by all means, they will also pursue their political agenda.” ... at times when a party wins/comes; you see so many people from that party being employed there (say at EOCO). When that party leaves office, such people are either transferred or sent somewhere. Additional people will come in. But what I’m saying is this- that because of their influence, there is this tendency to be biased towards the ruling government” [GR10: NGO].

“Cases are held secretly...with Information not divulged at the right stages to the media” [GR7: Media].

“Most of these institutions are headed by political appointees. So, if party A goes and Party B comes. It will also like to appoint its own people to head those institutions. And therefore, you will always have that challenge if trying to interfere or manoeuvre or not to offend the person who was appointed and the appointing authority more or less. So, I believe the way forward for us is for the nation or the country to come out clearly and advertise these key positions and make sure that competent people are appointed or recruited with a term of office or contract performing agreement for them to sign with rules and regulations – with everything spelt out, so everybody can see from behind whether the executive director or the head o is doing his or her work [G9, 7.36: Media].

The issue of its independence has been linked to the agency’s inability to function successfully. When asked about the effectiveness of the EOCO respondent G9 affirmed:

*Yes... the agency was effective in the days of the SFO ... they were doing quite a good job... and consistently. But since its establishment (EOCO) we have never had a substantive head – it is always acting. And people felt that ...they (respondent referring to the government in power) made you an acting head because it’s a way of cowering you not to go into serious issues that may offend the system or people...
“...**the powers that be**” [G9,3:22: Media].*

The agencies are also seen as a *platform for corruption* to take place in many ways. Some respondents argue, that the EOCO being a public body should be open to scrutiny.

*“The media should be independent enough to investigate EOCO itself”
(GR7: Media).*

Despite the many challenges in the system and processes, some respondents still believe that the agencies are working diligently to tackle fraud.

“Yes, the EOCO and other such organizations are working hard to ensure that fraud and corruption are rendered unattractive to eradicate the menace.”

“The lack of cooperation among law enforcement agencies. There is a need to embrace more help from the likes of forensic experts for our cases. However, when you consider the expense of such expertise we are unable to sustain or expend such high levels for each case” [GR2: Prosecutor].

All EOCO staff confirmed that a considerable length of time is spent gathering sufficient evidence to prosecute individuals; and various pre-trial conferences are held. One stated:

“Gathering adequate information/evidence and proffering correct charges against suspects /defendants is very vital for successful prosecution and conviction. It is not a rule that every criminal offence must be automatically be prosecuted. Enough or sufficient (s) should be established to determine successful prosecution”.

“Meeting and having conference with witnesses

Weighing available evidence against the elements of the proposed offences. Evidence that can establish the guilt of a person beyond reasonable doubt” [G4: Prosecutor].

They EOCO prosecutors claimed that they are not doing as well as they would like to [G3: Prosecutor] as they face challenges when it comes to working with other government agencies, such as:

“The lack of cooperation among law enforcement agencies” [G4]

Contrary to this, many believe that fraud committed by high profile individuals are on the increase [Prosecutors G1; G3; G5; G6; and Media G8; G9].

“Crime rate relating to occupational fraud/abuse of office in Ghana is on the increase. Certain persons holding respectable positions are always bent on enriching themselves either by fair or foul means. Defendants believe they may get competent lawyers to defend them in the law courts when they are tried” “The EOCO and other enforcement agencies are doing their best to eradicate by de-stabilizing the network of criminals with the resources put in place by government” [G6 Prosecutor].

Many high-profile cases have not reached a conclusive stage. Some high-profile cases seem to be deliberately stalled. Also, cases where individuals are linked to a high-profile family member, disappear and remain obscure until someone demands clearer answers or conclusions; for instance, the Savannah Accelerated Development Authority (SADA) case no evidence that the case has been concluded in a way that would please the nation. However, Mahama reaffirmed his stance by citing SADA as one of the cases being thoroughly investigated under his government’s anti-corruption crusade (2016b).

Vivviene Lantey, who resigned from her post at CHRAJ, was said to have refunded all disputed money. The amount involved in her case was

£126k. Yet, when Tsiakata was accused of misappropriating £46k, he was sentenced to five years.

This research noted a distinction in Mallam Issah's case, which involved £32k, and was sentenced to four years in jail. One slight difference in Mallam Issah's case [Case ref: 2/4/2003: CA NO. 4/2001] was that he offered to refund the money stolen but did not plead guilty to the charges against him. Section 35 of the Courts Act as cited in the Judgement summary, sets out the parameters and consequences where an accused or convicted person offers compensation or restitution. The Judges noted this in their consideration and proceeded to sentence Issah to four years imprisonment.

The case involving the corrupt judges, Ghanaian journalist, Darko (2015) many felt the judges got off lightly, and are demanding that they should be prosecuted. But the Judicial council secretary Justice, Alex Poku Acheampong claimed some of the sacked judges had been stripped of their benefits. However, there are still claims that the benefits of other judges were retained, after they had shown remorse and had apologized "profusely" for bringing the judiciary into disrepute (BBC, 2015a).

Attivor, former Minister of Transport, reverberated some examples of inconsistent judgements at a public rally before the elections in April 2016, where she linked incidents to '*tribal factors*' (Attivor, 2017). In what seems like a political ploy to sway the people's voting decision; she asserted that the NPP had a track-record of putting the Ewes (people from the Volta region) in jail; and if they won the December elections, it

would repeat the same thing by jailing only Ewes. She claimed that the previous Kufuor administration specifically jailed former NDC appointees, who was from the region and went on to mention some of them as Dan Abodakpi and the late Victor Selormey.

Abodakpi, a high-profile individual who was successfully punished, was given a ten years sentence, but served only one year. President Kufuor granted him pardon in exercise of his constitutional prerogative of mercy in Mr. Abodakpi's favour.

Attivor later caused outraged when she was involved in her own scandal. The public felt she had been let off freely for her involvement in the bus embossment scandal; she resigned and all monies were said to have been repaid back to the government. But no mention of any further punishment and the report on the enquiry into the scandal was not released to the public like the GYEEDA report. This has raised further cause for concerns [G9, Prosecutor].

Sentencing in Ghana

Themes derived from sentencing	Number of Respondents
Unfair length of sentencing	10
Political motivated	10
Unfair treatment for perpetrators sentenced	13
Inconsistent judgement passed	13

Table 6.7: Respondents views on sentencing challenges in Ghana
Source: Nvivo coding

Forfeiture and asset recovery

This study revealed that in 36% of the cases reviewed, individuals had either resumed payment or had fully paid back all the money stolen as directed by the courts. The Woyome (GC1) case out of £51million only 4 million has been paid back to date. The Public Interest and Accountability Committee (PIAC), confirmed that proceeds from the Attivor case (GC15) the funds had been refunded in full; an amount of GHC3.65 million, approximately 9 percent of transport sector allocation (Buah-Bassuah, 2016). Details of the investigative report had not been made public, but the Minister of Transport resign.

In cases where the perpetrators were given custodial sentences, the courts also asked the individuals to pay a fine such as the cases of GC 3, 5, 11, 21 and 23. (see appendix: Table of cases reviewed in Ghana)

Suggestions for a better system

In the course of the interview discussions, many respondents conferred suggestions on how to improve the system. The media respondents felt it would be useful for the agencies to work closely with them by revealing the facets of the cases as it happens. Where no substantial information on the cases are disclosed, this can give room for false allegations and assumptions [G7, G8, G9: Media respondents].

The prosecutors want to see sterner internal monitoring systems and punishments. Also, a revision of the Code of Ethics to regulate conducts of officers [G1: Prosecutor]. Equip the organization's dealing with these crimes with improved technological equipment [G5: Prosecutor].

The media and NGO respondents all press for the independence of the Attorney General's post so that the processes of prosecutions are not manipulated in any way based on political interferences of the government in power.

Discussion

The cases reviewed demonstrate that prosecutions against high profile individuals in Ghana can and do happen. Many have been successfully charged and fines have been fervently pursued. The case judgements reviewed support the notion that Individuals involved in occupation fraud cases, are given a chance to enter plea bargain arrangements in accordance with section 35 of the Court Act 1993 [459]; where they are given a fine and asked to repay stolen monies. However, Issah's case highlighted the need for the accused to admit guilt before the case commences, to take advantage of the provision in this Act. In that particular case, the Judges in their judgement conferred the fact that modern jurisprudence in Ghana frowns on custodial sentences and considers restorative justice more beneficial and economical to the society.

Evident from the cases, is the notion that the system in Ghana can be corrupt and some prominent public officials are treated differently. A review of various media reports reveals how many investigations and public enquiry ordered by the President are kept private. This study can confirm 6 individuals out of the 25 cases, received private considerations.

The cases reviewed reveal some reasons for the delay in prosecuting some cases in Ghana and highlights several challenges in the prosecution processes. For instance, when a public enquiry is ordered by the President, the processes are further lengthened by the need for subsequent reports and enquiries as can be seen in the GYEEDA case. The scope of the fraud can also cause some challenges for the agencies as highlighted in the NSS case which is still ongoing and had several adjournments to allow the Prosecution Office to gather more evidence. The AG has also had several challenges with witnesses during the course of this particular case.

But these delays, according to some respondents, is predominantly as a result of political interferences and a corrupt Judiciary that cannot carry out its function independently. Majority of the respondents (non EOCO) staff regarded the Agencies as inefficient entities, lacking enough skill and tenacity to carry out successful prosecutions. In some failed cases, some Judges cited that cases seemed to be rushed by the prosecution lawyers from the Agency, EOCO and that principal areas were not addressed in order to get a successful conviction.

In summary, the following key points can be gleaned from the review of cases and the interview discussions:

- Majority of the perpetrators were men. Several respondents confirmed that the allegations of corruption in Ghana's judiciary is also one of the significant problems facing Ghana and are not unusual because it is male-dominated.
- The two cases involving women as sole perpetrators had closed door negotiations where all the monies were claimed to have been returned.
- Individuals are given the opportunity for restitution or to offer compensation if they plead guilty at the start of their cases (Section 35 of the Court Act, as cited in the Judgement summary in Mallam Issah's case, 2003).
- Restitution – when ordered by the courts to return stolen funds. Some perpetrators have been known to pay back in instalments. This study did not confirm if a timescale was always given by the courts for the Woyome case, as is still a very controversial topic in the press, in terms of how much the government has received since his judgment.
- Majority of the perpetrators whose cases reached a resolution point, were asked to resign from their government post; with the exception of some such as, Vivienne Lantey, given the choice to be posted to a back-office government role.
- Conversely, one inconsistency in the sentencing process is highlighted by the Lantey's case (which involved almost three

times the amount in Tsiakata's case of £46k). Lantey was asked to resign with no penal or incarceration implication; but, Tsiakata was jailed for five years.

CHAPTER 7

DISCUSSION OF FINDINGS IN NIGERIA

Occupation Fraud types identified in High profile cases in Nigeria

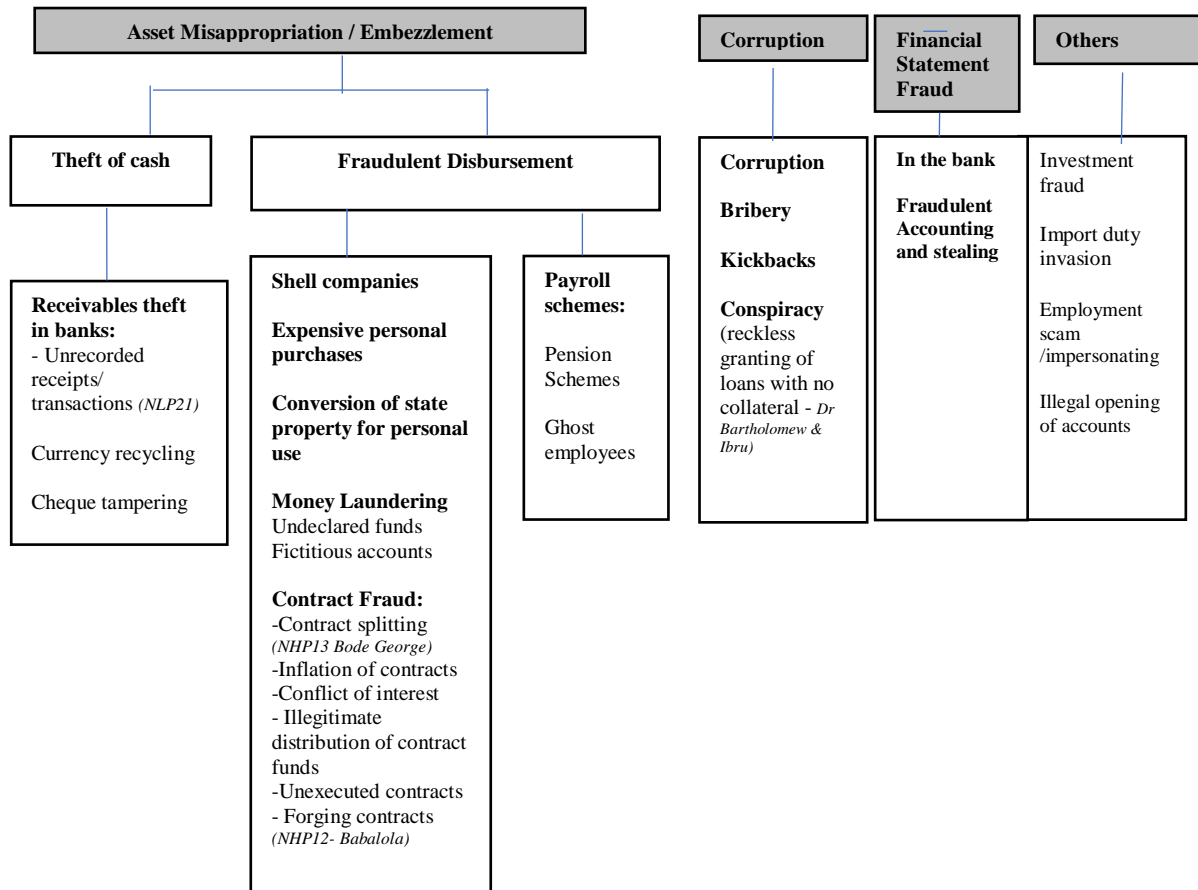


Figure 7.1. Classification of occupational fraud types

Out of sample of the 176 cases obtained from a 2013 and 2014 sample list extracted from the reports of the EFCC and ICPC (EFCC, 2014, 2013, 2010), 52 involved high profile individuals (EFCC, 2010).

All cases were reviewed based on the amounts involved but after further examination it was apparent that the cases involving low profile individuals had very little challenges to prosecutions. Confirming

demographic data on perpetrators proved problematic and caused a big gap in the data gathered. At this point a decision to focus on just the high-profile cases was made.

25 high profile cases were selected based on the high value of money misappropriated and the high-profile individuals involved in these cases. These cases are sometimes referred to as “PEP” cases; Politically Exposed Person or High-Profile cases. The individuals involved have either been in political positions or in high-ranking positions within publicly owned organisations. These are cases that involve over a Billion Naira (£3.7Million). The number of cases for Nigeria were chosen so it was consistent with the numbers in Ghana; therefore, allowing a like for like comparison.

Each respondent in Nigeria have a unique reference denoted by the abbreviation N and a number. The cases are discussed by using the names of the perpetrator or the respondent’s unique reference. Where salient points were made by respondents, the exact point in time during the interview, where that particular view was made is captured and forms part of the reference. This is done to allow for ease of traceability and a systematic trail; hence confirming empirical evidence. Also, the classification of the respondent has been included in the reference so the study can capture a pattern from each group. The narratives have been included to support the discussions of cases or points.

A case involving Billions of Naira is a significant amount. One billion naira, converts to £3.7million. The £268.8 rate used, is the average conversion rate for the past 10 years.

This section of the chapter begins with evaluating the types of Occupational Fraud crimes as depicted in the Nigerian case sample and describes the key fraudulent elements of the cases in each Occupational Fraud category; they are summarised in typology tables. The discussions follow the order shown in Figure 7.1 in the beginning of this chapter. The amounts involved and the characteristics of the main perpetrators are discussed afterwards.

Succeeding sections in this chapter discusses how the crimes were detected and prosecuted; drawing on any barriers encountered to effective prosecution as seen in the case reviewed and confirmed by the interviews.

Asset misappropriation / embezzlement cases

Of the three categories identified from the high-profile cases examined, asset misappropriation was the most common, occurring in more than 90% of cases examined for this study.

<i>Typology of Asset misappropriation / embezzlement cases</i>	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Loans with insufficient collateral. (Ibru)	Some help from low level employees. Kickbacks for clients involved in the schemes
Reverend Nyame	1.6 Billion Naira Ongoing trail at the time of writing this thesis.
Dariye	\$11,9 million misappropriated Ongoing 23 counts of money laundering and corruption. Funds were channelled into several bank accounts in the UK and Nigeria. Police in the UK seized \$210k in cash. He was arrested and released on bail. But he fled back to Nigeria. He avoided the British International arrest warrant through his constitutional immunity as a Governor in Nigeria.

Table 7.2. *Typology of Asset misappropriation / embezzlement cases*

The highest amount involved in this sample was £598 million (N160 Billion naira). It involved one individual as the coordinator, Mrs Cecilia Ibru, a CEO at Oceanic Bank in Nigeria. She amassed her illegal funds through various kickbacks from fraudulent loans.

Dariye's case in this group highlights the challenge 'impunity' laws

cause. The findings in three cases suggests that despite legal frameworks put in place, public official still find a way to corruptly enrich themselves. The role of the foreign banks in receiving these stolen funds have been questioned by many (Buhari, 2016, Shehu, 2015).

Theft schemes

Typology of theft schemes	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Unrecorded receipts/ transactions Currency recycling scam (NH26)	N8billion 8 bank staff implicated. Collusion between staff from two different banks including the Central Bank of Nigeria.
Misuse of public funds	_ involving the special Assistant to the President -A government entity was opened to divert money from the central bank. - Involve the NIA and other accomplices whose bank accounts were used to transfer funds into. - Fictitious accounts were setup
Time span	Several years

Table 7.3. Typology of theft schemes

Three categories of theft emerged in the high cases examined.

The first is the currency scam. In banking, briquetting refers to exercise carried out by the banks where dirty currency notes are destroyed. (EFCC News, 2015).

Six national bank employees collaborated with a CBN staff and compromised the CBN's briquetting exercise, which was meant to combat the inflationary spiral in the economy, occasioned by excess dirty notes. Rather than destroy old currency notes, the EFCC said the culprits substituted them with newspapers neatly cut to Naira sizes and recycled the defaced and mutilated currency.

Illegitimate distribution of contract funds, a former Special Assistant to President Goodluck Jonathan and the spokesperson of the People's Democratic Party (PDP), Metuh, was arrested for his involvement in the sharing of N10billion to delegates during the December 2014, presidential elections. Investigators believed the fund was part of the alleged \$2.1billion meant for the purchase of arms to support the fight against Boko Haram. A Ministry of External Affairs Library was set up with the connivance of officials of the NIA. The Permanent Secretary then sent instructions to the CBN for funds to be deposited into the account of the Ministry of External Affairs. N2.5bn was transferred into Joint Trust Dimensions Nigeria Limited account, from where monies were sent to all accomplices. N140m cash was allegedly paid into one female accomplice's Bank Account. Preliminary investigations however suggest that the Ministry of External Affairs Library did not exist. This case is ongoing.

Fraudulent disbursement

Money Laundering

Money Laundering fraud typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
	James Ibori (NH6)
Amounts involved	£150 million; £348k Hidden in off shore accounts and assets all over the world; Geurnsey, Denver, Colarado, Switzerland, Austria and six different foreign accounts in Barclays Banks in the UK. He failed to declare any of his assets during court proceedings.
Time in Office	8 years
Span of fraud	UK and Nigeria - Used 9 companies to defraud the Delta Sate government in Nigeria.
	Charged and sentenced to 14 years in the UK.

Table 7.4. Money laundering fraud typology

Ibori's case illustrates how one case such as this can bring about a number of challenges for the anti-corruption agencies. These challenges include, money expended on investigation, asset recovery, immunity and many more. Ibori's case also exposes the misuse of different companies to divert public funds. It is easy to see how the convoluted methods of laundering and the complex transactions and professionals involved can prove an uphill task for the agencies; technical and financial challenges.

Contract fraud

Contract fraud typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Conflict of Interest	Evidence that no procurement checks were considered. (Turaki)
Contract splitting	No feasibility study carried to check the extent of the roads before budgets for projects are approved accordingly. But the finance department should have confirmed the scope of the works before approving budget allocations.
Contract Inflation	The integrity of procurement checks was undermined. Contract were awarded to bidders who are willing to pay kickbacks
Unexecuted contracts	Either there are no project monitoring processes observed or the staff in key positions like the Finance Departments collude with these cases

Table 7.5. Contract fraud typology

Contract fraud is another type of contract fraud with elements of corruption. This is a process where some insider information is provided to bidders who are willing to pay kickback or proxy companies owned by the officials awarding the contract are used in disguise.

These high-profile cases illuminate a litany of irregularities in the procurement of contracts. In a clear situation of **conflict of interest**, contracts were awarded to individuals that were personally linked to the governor. Unexecuted contracts were paid for in advance. In another instance, the governor accepted a contract for his personal interest (His own company).

In case NC11, Investigation by the EFCC revealed that a road construction contract awarded to one Chief Jacob Nwatu, between 2002 - 2003 was **not executed**. Yet, N514, 833,564.60 from the public budget was paid for this contract, which was traced to the Zenith Bank Account of a Chief Nwatu.

In one case, NC4, the Niger Republic, which was due to host a summit of Francophone countries in Niamey, entered a contractual agreement with Wallong Camco Nigeria. Wallong Camco Nigeria, was a company in which Turaki, **an ex-governor in Nigeria, had an interest**. The Niger Republic gave Wallong Camco Nigeria free land in exchange for building 86 housing units to accommodate visiting foreign dignitaries.

Sometimes prices were inflated to justify the need to withdraw a substantial amount of money. A **project cost was overstated** so a substantial amount could be awarded for works to be carried out. The perpetrator, governor, Saminu Turaki in case NC4, split an existing road into two – therefore classifying each flow of traffic as separate contracts; despite the stretch of road being only one kilometre. The contract was subsequently awarded at N3 billion; so double the amount than if regarded as one stretch of road.

The cases in this section illustrate instances of ‘material deviations’ from generally accepted procurement practices, which should easily have been picked up by the Finance department or through an Audit; which always requires evidence of contract and contract cost. But what is clear,

is the inadequacy in efforts to address or put in place, any counter measures to avoid the conflicts of interest of key role players and the lax practice followed in awarding large contracts in these public institutions.

CORRUPTION CASES

Corruption typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Perpetrator	One female acting on her own. Educated to master's level and married into one of the richest family in Nigeria. (Aitec Africa, 2012).
Time in office as a CEO and Managing Director in Oceanic Bank; now Eco Bank.	Over 7 years
Conspiracy and reckless granting of loans	Ibru had also extended credit facilities of 16 billion naira to a company who had no collateral. Loans were not repaid. Shares in the five banks, which amounted to 40% of the country's bank credit, and had to be suspended.
Sentenced	25 counts of fraud 6 Months jail term
Confiscation	100 properties from her in Nigeria, Dubai and the United States. The EFCC reported to have recovered \$300m of bad debt, but billions are still outstanding.

Table 7.6. Corruption typology

The case illustrated in figure demonstrates the magnitude of the problem in Nigeria. It is perplexing to note, as the greed and massive acquisition of wealth these public officials seek; despite coming from an affluent family background as well as her husband's wealth.

In 2009, the government removed Ibru along with other bank executives from several financial institutions for their involvement in a multibillion-

dollar banking scandal. The central bank undertook a 400bn naira (\$2.6bn; £1.6bn) bail out for nine banks which were on the brink of collapse because of the bankers' reckless lending and fraud (BBC, 2009, 2010). All the banks were found to have low cash reserves due to bad loans totalling 1.14 trillion naira. Through her position as the Managing Director in the bank, Ibru had also extended credit facilities of 16 billion naira to a company who had no collateral. She was sentenced and ordered to reimburse 1.29bn (approximately one billion Euros); a fraction of what was stolen. She was also given a six-month custodial sentence, of which she spent in a lavish hospital (BBC, 2010). Ibrus' case stands out from others as she allegedly controlled the plans. She was in control of the funds.

Investment Fraud

Investment fraud typology	
Elements of fraud / key characteristics of cases	Effect / implications/ breach in the system
Amount involved	N277.3billion Naira (£1 billion);
Demographics	2 Males - Investment banker and a Chartered Accountant.
Collusion between several banks to exaggerate activities on the stock markets and increase their market share	The various banks had granted funds so the perpetrators could manipulate the markets.

Table 7.7. Investment fraud typology

This case involved the highest stolen amounts in the case sample and involved a Chartered Accountant and a Licensed Stockbroker, who

colluded with several banks to amass funds.

He claimed to have received a N30bn facility from Union Bank, another N22.2bn from Oceanic Bank and N3bn from Finbank. According to his company's audited accounts for 2007, Falcon secured a total of N89 billion in loans and overdrafts from the banks to buy shares. In addition, the company got N43 billion from the investing members of the public, among whom were banks in search of profitable deals in stocks all in 2007. His company's method of operation (*modus operandi*) was simple. With corporation with some banks that wanted to inflate the price of their shares, Ololo's Falcon would buy up the shares even when other traders were dumping them, creating the illusion that the stocks were in high demand. Companies that wanted to raise capital enlisted the services of brokers like Falcon to manipulate their stocks without sound financial and professional underpinnings. There were some cases where some stocks appreciated more than 100 per cent, sometimes 200 percent in one month, making the Nigerian market the best yielding globally. Having driven the stock to the desired level, the company would announce a public offer at a discount. The banks shared in the deception that entrapped millions of Nigerians, by providing the stockbroker with funds to buy their shares to give the impression of huge public demand and market appreciation. Then market started to meltdown and made Ololo's loan a bad loan for Central Bank of Nigeria. This attracted attention and Investigations carried showed out by the EFCC showed that Ololo connived with bank executives to help manipulate share prices of banks on the stock exchange. Aside from the N88.3bn non-performing

loan, Ololo's companies owed the troubled five banks. He also admitted to owing the following banks listed in table:

Dubious Accounts

Dubious accounts were also opened to move money across from government accounts into private accounts. In one case a private account was changed into what was seemingly an account which transacted government activities. Mr Wike (NH14) colluded with a Zenith bank staff to change the account details and convert it to a "Government House Account". "Harrison Ba Princewill" then became a depositor to the new "Government House Account.

Payroll fraud:

Pension Scams

The only pension case in this sample which amassed to N32.8 Billion (£122k). The EFCC described this as a complex scheme which involved several transfers of huge sums between banks, use of illegal accounts and falsification of names; is said to have been conducted between the officials and a former Director of Police Pension Fund, Dangabar. He was charged. He told the EFCC that part of the money was shared among the officials and the pension committees of the senate and the House of Representatives. One of the accomplices (an unknown individual) who the EFCC claimed to have benefitted from at least N2

Billion (£7.4 million) was charged with three counts and ordered to pay N250 thousand per count.

Amounts involved in the Nigerian cases reviewed

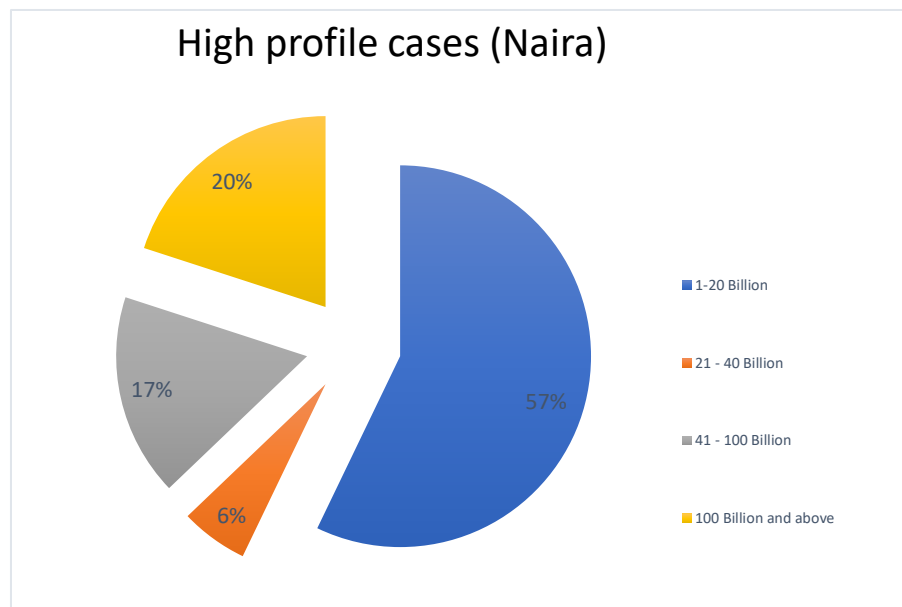


Figure 7.1. Aggregate amounts of Money involved in cases analysed

Figure 7.1 illustrates the aggregate amounts of money involved in the cases analysed. 57% of the cases fell into the 1 – 20 billion naira brackets (i.e. between £3.3million and £74.4million). One fifth of the case sample of crimes involved amounts over 100 billion naira (over £3.73 million).

All the cases involving women individually fell below four billion naira. When combined, they totalled N8.6 billion naira (Just under £32 Million). However, Mrs Ibru on her own amassed 160 billion naira (£596 million- using the average figure from the conversion table). The total amount involved in all the 30 high-profile cases analysed equal 1.5 Trillion (£5.8

Billion). Individuals working in the public Ministries were often involved in high-profile cases and occupy managerial or executive positions in their organisations which gave them access to greater opportunities to commit greater levels of crime.

Examining the demographics of the perpetrators in Nigeria

All the cases were examined, with as much information extracted to give a clear picture on the perpetrators involved in the cases. This includes data on age, gender, educational background, and their level of authority.

The findings reveal the typical profile for an Occupational Fraudster in Nigeria is a highly qualified male, aged between the age of 40 and 50.

Gender of perpetrators

	Number of perpetrators
Female	1
Female & Male	5,5
Male	19

Table 7.8. Gender split of high-profile cases in Nigeria

Only six out of the thirty-six high profile cases included a woman. Five out of the six acted alongside other men. In one of the cases (ref. NH26), a senior bank staff, female, acted as a member of a group. The group decided that rather than destroy old currency notes, the EFCC said the

culprits substituted them with newspapers neatly cut to Naira sizes and recycled the old notes. The scam, the EFCC said, went on for several years, until it was discovered on November 3, 2014 following a petition alleging discreet recycling of over N6.57 billion (£25 Million) by top officials of the Central Bank of Nigeria (CBN) at the Ibadan branch during a briquetting exercise. The other five cases involved one female commissioner collaborating with other males; two senior bank managers in Zenith Bank and Intercontinental Bank; a Director in the National Gallery of Arts, one bank official.

One high profile embezzlement case involved a female, former Director of Oceanic bank, Ibru; who acted on her own when she granted loans without sufficient collateral and got kickbacks for it. She accumulated a total of N160.2 Billion (£596 million) during her time at one of the leading Banks in Nigeria.

All women involved were equally highly skilled individuals and were in high-level positions when they carried out their crime. In Ibru's case she was very educated and her crimes are classed under the highest-level impact group.

Male:

31% (i.e.11 out of 36) of the men in the high-profile sample were state Governors. 26% (9 out of 36) were Government Ministers, Senators, and Commissioners. 23% were bank Directors and Chief Executive Officers (CEOs) in various financial institutions; the banks and the Nigerian Stock

Exchange. 11% were Directors of private companies. Other males represented 9% of the sample.

98% of high profile cases were carried out by men involving numerous types of occupational fraud such as embezzlement in office with elements of corruption and money laundering featuring in each case. Majority of the men were governors or ministers or in high ranking government positions.

But as one respondent in this study affirmed,

“Nigeria is not gender sensitive. Corruption is not gender sensitivity. The pension fund case – There is a woman involved. She is a senior. Level 10 officer. By and large, we have more men. Middle aged...yes” (N10: Defence Barrister).

Age

The findings revealed 11 out of 25 perpetrators fell within the brackets of 40 -50 years old. 10 were over 61 years old. The oldest was Botmang who was 70at the time he was arrested and charged.

Qualification

The case sample revealed highly qualified individuals with professional qualifications such as Accountant, Lawyers, Doctors, Surveyors and also PhD. The demographic findings therefore suggest a group capable of understanding the consequences of their actions.

Detection of fraud schemes in the case reviewed

Though good internal tips and whistleblowing leading to detection is a powerful tool for most organisations to use. In a country plagued with corruption, relying on insider information or customer's alert alone may not work sufficiently on its own to eradicate occupational fraud unless other mechanisms are put in place. *Several respondent responses confirm this corruption, stating that:*

"... the banks in Nigeria have some obligations to periodically update the regulatory agencies, either the EFFC or ICPC regarding abnormal lodgements of customers. If someone is making beyond his legitimate earnings... But they rarely do that because they always have their own kickbacks. But some of them can" (N10: Defence Barrister).

"is usually via Information from insiders in the organisation involved (i.e. whistle blowers, overt acts of the suspects arousing suspicion; outright complaint by victims of the crime in question. Detection methods could be based on internal checks and balances mechanism setup by the organisation or individuals who are victims of the crime; or collaborations by investigating agencies and financial institutions" (N12: Defence Barrister).

Members of the public exercise their rights through raising petitions (N3: Defence and Prosecutor).

Some cases may be mere speculation of malpractice; some may be disgruntled by perks received after change of management. Some respondents highlighted that there were different motivations behind the tips in cases. Sometimes "... If you are disgruntled within the system" they notify the EFCC because they are not benefiting enough or getting anything from the fraud committed (N6: Defence Barrister).

Whatever the reasoning behind it, the respondents in this study cite that the system does not support safe disclosures; consequently, putting any whistle-blower at risk.

“In Nigeria, we really don’t encourage whistle blowing...You can see what happened in the recent case of the bullet proof car, the minister of Aviation decided to import. The first thing that the director general of NCA (The Nigeria Civil Authority) did was to come out and threatened the person that leaked this information out. (alright?) Saying we are going after the person that leaked this information out. If someone detects a crime, I think he should be encouraged not hunted. So, whistle blowing is not really encouraged. It is just lip service paid to it. But If they can work on the security of individuals, it will really help us in fighting crimes (N10: Defence Barrister).

Attention should however be drawn to the fact that none of the cases in the sample confirmed any detection via IT controls, Internal or external Audit, Account notification or surveillance. One respondent cited foul play with getting experts to make the financial accounts look intact. In other word Misrepresentation of Financial Accounts. No case example was given. In hindsight, I should have prompted for examples.

“Because most of the time when these things are done, they get people to clean the books. So, if you look at from the face of it, unless you are extremely forensic you won see it” (N6: Defence Barrister).

Sentencing challenges in Nigeria

Themes derived from sentencing	Number of Respondents
Unfair length of sentencing	5
Political motivated	15
Unfair treatment for perpetrators sentenced	2
Wrong judgement passed	3

Table 7.9. Sentencing challenges mentioned by respondents and media

Some judges have been known to order for cases to be speeded up in some instances, with the applications for bail refused. Justice Emmanuel, in dismissing one application for bail, where six top central bank officials (NC26) were arrested for N8 Billion-naira fraud, stated that the interest of the accused must not only be considered while looking at their application but that of the common man and the society. Consequently, the court refused the accused persons bail based on the gravity of the offence which the judge termed as bordering on the economy and wellbeing of the people of the country. Conversely, there have been fraud committed involving higher than N8million, where individuals had been granted bail and cases still pending from as far back as 2007.

Sometimes Judges pass sentences to send out a message to the masses. When the sentences in some cases are compared it looks unfair and inconsistent. Especially when you compare cases involving

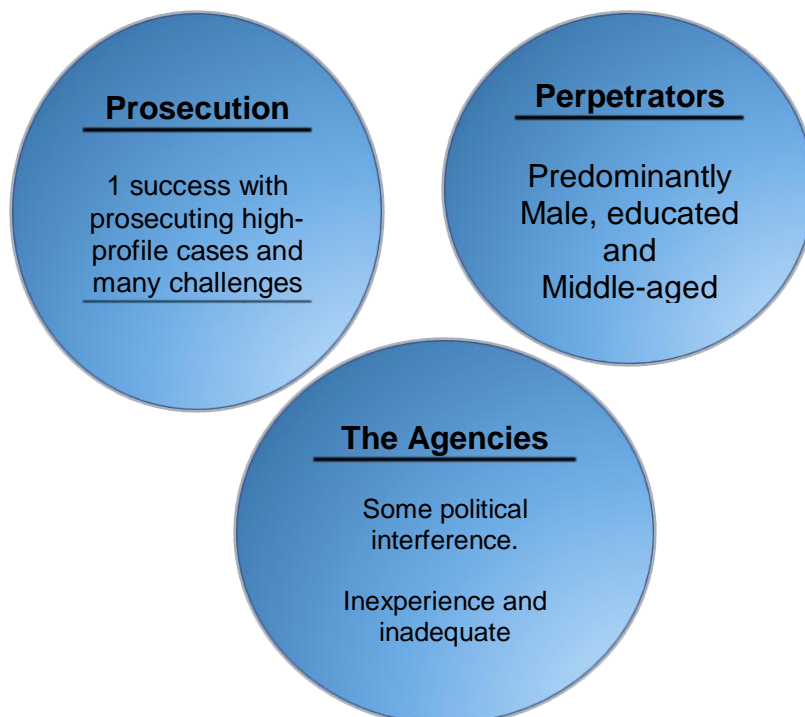
a fraction of the amounts stolen by one high-profile politicians who go unpunished with a very small fine to pay; a slap on the wrist compared to the custodial sentences received by other high-profile individuals who may not be as connected or influential enough to manipulate the system. In 2014, the government approved a new directive to speed up cases. A prescriptive period was set out in this directive to address the period for which cases must run to ensure cases are dealt expeditiously.

Barriers to effective prosecutions in Nigeria

Reasons for challenges	Number of Respondents
Truncation tactics employed by defence and prosecution lawyers. This may include unnecessary delays in providing witnesses to support cases or adjournments by the judges	15
Corruption	15
Prosecution rush to prosecute without adequate evidence.	7
Political will does not exist	6
Training needed and inadequate resources	10
EFCC probe are inefficient	15
Cultural Issues	4

Table 7.10. Prosecution challenges mentioned by respondents.
Source: Nvivo coding

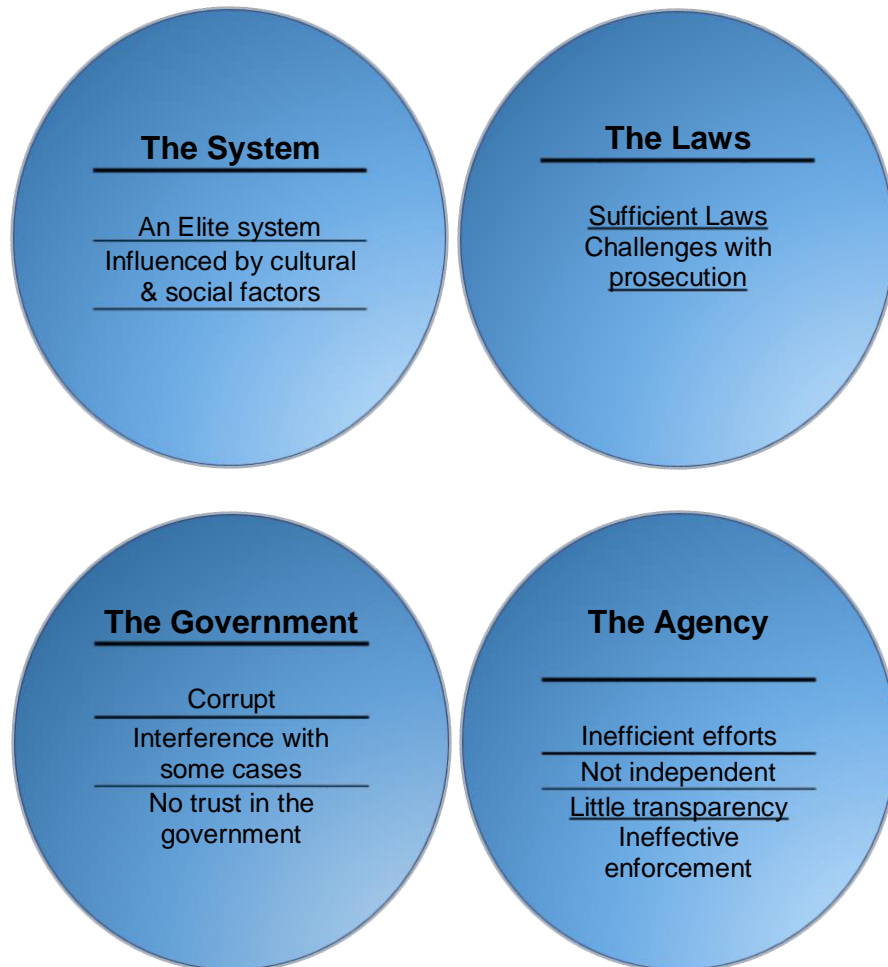
Figure 7.2. Themes from cases reviewed



Themes derived from the interviews in Nigeria

The main themes derived from the Interviews with Defence and Prosecution Lawyers in Nigeria:

Figure 7.3. Themes from interviews in Nigeria



A good prosecution is often determined by good ground work and infallible investigations. This research cannot confirm how much monetary value is put into each case process to get a conviction, nor can it confirm the capabilities or qualification of the investigators. EFCC report high levels of cases prosecuted each year, but this does not

necessarily signify high productivity but rather, can be indicative of a strategy of targeting petty cases for quick results; consequently, giving an illusion of high-level activity and productivity.

Investigations of high level political exposed persons (PEPS) can be extremely costly in time, staff and other resources expended. How the agencies prioritise these often have implications for the volume of investigations they must carry out. One respondent elaborated on the amount of efforts used to prove Ibori's case with the collaboration of several law enforcement agencies overseas (UK and the US), including high profile barristers or senior advocates, SAN as they are referred to in Nigeria (N1).

In many instances, cases were tried in the lower courts and then moved to the supreme courts or Appeal courts for further review if parties were unhappy. Sometimes the cases directed back to the lower courts. The high-status offenders are at an advantage – whether directly or indirectly through their connections, and finance; this presents them with access to good defence lawyers and what may seem as preferential treatment through the judicial system.

The defence lawyers interviewed stressed that *tactics were often applied to extend or distort the process of prosecution* where the plaintiffs are then given time to abscond or to carry on their normal lives. Leaving some to commit further crimes while awaiting the process of a proper trial to commence. Almost all respondents (defence lawyers) indicated frustrations with the way cases are dragged out or protracted in court –

where the EFCC or other defence lawyers find little issues to lengthen the court processes. For instance, a client or a key witness may be ill or absent from court which consequently delays the process because the judge grants (as it suits) that the case can be adjourned to another date. Conversely, some individuals found themselves in more difficult situations where the pre-trial and investigative procedures were more coercive: individuals were detained for weeks or several months before their trials began (NC17).

The challenge of getting reliable witnesses was confirmed by the barristers interviewed. One suggested that having an adequate witness protection scheme within the system would be of benefit to the cases in court. The respondent explained this viewpoint:

“... when the matter also goes to court you also have problems getting your witnesses. At times; some witnesses develop cold feet. They are threatened and things like that. And ehm the system in Nigeria has not provided for adequate witness protection. Because there’...even the prosecutor going to court is not properly protected so how can...do you talk about his witness?” (N1).

Corruption

Corruption, is an issue cited by respondents as a factor which has brought about the lengthy delays in the judicial system, discussed earlier; where cases are stalled because they may implicate other high-profile individuals (private or publicly known individuals) not yet indicted. 12 out of 15 lawyers believed that the judicial processes were either

tampered with or influenced by political parties. Sometimes one case may be linked to another government or a major public institution or individual. This has an obvious repercussion on the time it takes for cases to reach a final judgment.

Corruption linked to elitism is evident where individuals (usually high profile) are *re-elected into public offices* and subsequently benefit from immunity from prosecution. For instance, the case involving Orji Kalu, a former Governor of Abia State, who for 9 years, has been involved in intense legal battle. However, to avoid conviction for charges of corruption, he formally joined the ruling party (APC) in November 2016 (Adebayo, 2016).

Turaki, who was governor for eight years, from 1999 to 2007 was arrested shortly after his duration in his post as governor, about a case of criminal conspiracy, stealing, money laundering and misappropriation of N36 Billion (Thirty-Six Billion Naira) of public funds. He was granted bail on strict terms; but absconded and as at the point of writing this paper (2016), he appears on EFCC's website as a wanted individual. However, since then, he has been involved in various attempts for a political come back in 2015 with no case conclusion.

Sentencing when it comes to the sample of high profile cases have been few and far between inducing various public outcry on injustice. Only a handful reached the sentencing stage. Only four out of thirty had reached a conclusive stage. One of the perpetrators, Michael Botmang

died before they could complete the process of prosecution. He was accused of stealing £5Million (1.5 Billion Naira).

Adamu (NHP28) a perpetrator and a lawyer, has worked in various government positions from 1977 - 2015. Adamu was arrested by the EFCC in 2010 for allegedly embezzling £36million (N15 Billion Naira) of government money that should have been used for public projects. He was granted bail. A day after he declared his intentions to contest the Nasarawa - West Senatorial seat. He was made a senator in 2011. In an interview with a national paper he dismissed the claims as “mere allegations” and possibly politically motivated (Joseph, 2011). The case did not reach a conclusion.

The case against Sunday Akinyemi a known “*connected elite*” was also not concluded. He died from Cancer during the period when the case was going through the prosecution process. He was granted bail. His case was adjourned numerous times. Later the adjournments were justified due to his ill health.

Some cases involving individuals linked to high profile individuals are often seen as given very lenient sentences where there was an option of imprisonment or a small fine to pay in comparison to the amounts stolen. The case FRN V. John Yakubu Yusufu (FHC/ABJ/CR/64/2012) not classed by the EFCC as a high-profile case, involved £32.8 Billion. Interestingly, Mr Yusufu, a previous Assistant Director in the Federal Civil Service did not act alone and was linked to several other high-profile

individuals. His case was tried separately and accounted for N2billion (£746 thousand) of the total amount of funds involved. He was tried on a 20-count charge alongside others, including Atiku Abubakar Kigo (Permanent Secretary – high position) and the Head of the Pension Reform Task Team, Abdulrasheed Maina.

Etok (2013), the Chairman of the Senate Committee at that point, accused the perpetrators of being backed by influential Nigerians in the corridors of power. Yusuf admitted to 19 out of 20 charges brought against him. Mr. Yusuf forfeited property traced to him by the Economic and Financial Crimes Commission, EFCC, valued at N325 million. At the end of the trial Yusufu was asked to pay N250, 000,000 fine on each of the three counts he was found guilty of.

The EFCC, with the support of the present President resumed investigations and prosecutions of some old cases involving high profile individuals in 2015. Some of these cases were previously put on hold and pending trial. Since President Buhari was elected, there has been a surge in trials that were previously stalled brought back to court.

These cases are not peculiar, as similar cases stem back many years, such as the case of Abacha's son (the past Nigerian President).

One respondent (N5), noted that the EFCC was keen to see these cases resurrected in courts so that they could be concluded before the elections were over. Abubakar Audu's was an example of individuals with unfinished cases, running for governorship. His case raised by the EFCC started since 2003. Once they are successful in attaining any

government position then they become immune from prosecution. This is a challenge for the EFCC.

There were instances where lawyers claimed that the accused (their clients) were dealt with in a precarious manner i.e. the EFCC prosecutors informed the accused and the lawyers of trial hearings last minute at each stage of the proceedings, giving very little time to defend a case. In such cases, the lawyers felt these were *politically motivated or instigated allegations*. An attempt to shaken their client or get them out of the way. Masked in such circumstance was the case of Adenike Grange (Grange, 2014). Some media reports also reported the arrests as being part of a *smear campaign to discredit the individuals involved*.

Other Lawyers cited that they were given very limited period to prepare their defence and many times the EFCC rushed to prosecute their clients with no evidence. In some cases, only one-hour notice was given to meet at the court house.

“There are cases that come in. We’re in a political terrain. They are politically induced. They could just frame a charge against me just because just because the civil service says if I have a charge in court I should step aside while the court is considering that. By the time i’ve stepped aside that position cannot be in vacuum, someone else will come in. 5:40 Like Professor Grange she was discharged, but she didn’t get back to her office. She did not get any letter from the federal government through the secretary to say sorry...this this this. She’s gone!” (N6; 5:10: Prosecutor).

“I was involved in Prof Granges’ but that I felt she was being victimised. We were all able to quash the charge. I believed she was framed” (N10: Defence Barrister).

The role the media plays in the process is also cited as a challenge by the barristers.

“You are condemned before you are given a chance to defend yourself. They should stop sensationalising the cases” (N3: Defence).

Need for better case management and procedures

An area of contention for the defence barristers. These include interactions that occur between investigation and the prosecution process. Many Barristers cited the need for EFCC investigators to manage all their sources of evidence including witnesses and exhibits to help the prosecution prove their cases successfully. This inadequacy has been the reason why so many cases had been thrown out of court. However, only one respondent believed that investigative efforts were noticeable in some cases.

“Things work out well... at times. Not often... and ehmm depending on... there are cases that are well investigated. I am doing the PENSION TRIAL now and I believe that those cases were very well investigated. There is no reason for any prosecutors to complain about the quality of investigation that was done. But ehm...because it is also very well investigated, the accused persons are also employing all sorts of tactics to ensure that the cases do not come to trial. A times they blackmail the judges. Accuse them of bias without providing evidence” (N1: Defence Barrister).

Training needs

Some defence lawyers interviewed believed that the prosecution lawyers needed *more training*. More training was believed to be needed for EFCC prosecution lawyers, as they hurriedly took cases to court without adequate ground work and investigation of alleged perpetrators. Respondents recall instances where important items on prosecution documents were omitted. Instances where the prosecution agencies used lawyers that were not sufficiently experienced in prosecuting these types of matters. One respondent stated:

“We’ve had instances where you see the lawyers...just ehmm – i.e. the Defence lawyer will just bamboozle them – very shady jobs and then that’s the end of it” (N10: Defence Barrister).

Another respondent, N5, recalls an instance where:

“the name of person accused on the petition was different from the document presented as proof...and different from his client’s name”

Yet his client had been arrested.

Some defence lawyers cited that their fight was easy in several cases because of the *sub-standard investigations* and limited evidence to substantiate claims against their clients. Making the claim baseless and leading to the case being annulled most of the time.

Most of our criminal trials are lost because they don’t have effective investigative acumen of the officers investigating. Because in every offence, (and I’m sure this obtains even abroad too) for every crime, there must be elements of the offences... once you are not able to

establish any of the elements, then you can be rest assured that the trial will fail certainly (N10).

“our success rate is 7/8. Because first of all, their Investigation are always sloppy. People are complaining that lawyers are not helping situations because they know ... they say ... these people will take this money ... pay lawyers so big and they get them out. Then I say well ... They get them off the law within the law. They get them off the law within the law” (N6: Defence Barister).

“We have not lost any of our cases. Their probes are ineffective and never result in anything advantageous and that’s me being honest, because I have never seen or heard any reasonable outcome to be celebrated as a result of an EFCC probe.” “I would say Tafa Balogun’s and Bode George’s were good cases that were conclusive but not extensive in my opinion because if they were, more heads should have rolled. The pension thieves and subsidy cases should top the list, but they seem to have become secret cases of sorts, which no-one is following up on anymore” (N10: Defence Barrister).

Some cases were *initially thrown out of court due to insufficient* evidence. The challenges faced in taking these high-profile cases to court, highlight why the EFCC are often unsuccessful in getting to a conclusive stage. One thing to deduce from this is that the EFCC are carrying out some actions to induce the prosecution processes. From the high-profile cases examined, there are clear indications that the court process does start, but it gets either thrown out of court early, delayed or stalled indefinitely.

Forfeiture and asset recovery

Forfeiture in cases such as bribery, corruption, money laundering and abuse of office are usually in the nature of any additional order made after conviction rather than a principal sentence. This usually forms part of the plea-bargaining process. The perpetrator may be ordered to forfeit all properties linked to the fraud.

The case of Ibori (2011), a previous governor of Delta state, highlights how assets can be hidden all over the world, making it a lengthier and a less straight forward process to recover assets. This process required the joint efforts of several agencies worldwide to achieve the recovery goal. The case demonstrates that it is not only time consuming but costly as it requires stages of investigations and court processes. Since Ibori's conviction, investigators traced some of his assets in Nigeria, UK and the US. \$3,000,000 approximate value of Houston mansion and Merrill Lynch accounts was seized in the US (StARS, 2016). The US Department of Justice Press Release stated, "Through an application to register and enforce two orders from United Kingdom courts, the Department of Justice has secured a restraining order against more than \$3 million in corruption proceeds located in the United States related to James Onanefe Ibori". The application, which was filed on May 16, 2012, in U.S. District Court in the District of Columbia, sought to restrain assets belonging to Governor Ibori and Bhadresh Gohil, who was Ibori's former English solicitor; that they believed were proceeds of corruption. It sought further restrain on a mansion in Houston and two Merrill Lynch brokerage accounts.

The United States is currently working with the United Kingdom's Crown Prosecution Service and the Metropolitan Police Service to forfeit these corruption proceeds (StARS, 2016; USDJ, 2012).

Inconsistent plea-bargaining system

Although judicial involvement in plea negotiations is now built into the framework of the court system, not all high-profile individuals are offered that opportunity during their cases. Leading many to believe that the pleas bargaining process is another corrupt avenue to extort money from the perpetrators (Odia, 2011). Some cases in this sample have been linked to corrupt plea-bargaining processes.

In 2008, the former governor of Edo State from 1999 – 2007, Chief Lucky Nosakhare Igbinedion was prosecuted on a 191- count charge of corruption, money laundering and embezzlement of N2.9b; charge No FHC/EN/6C/2008 (EFCC 2015). In a plea bargain arrangement, the EFCC through its counsel reduced the 191- count charge to one - count charge. The single charge read: "That you, Lucky Igbinedion (former Governor of Edo State) on or about January 21, 2008 within the Jurisdiction of this honourable court neglected to make a declaration of your interest in account No. 41240113983110 with GTB in the declaration of assets form of the EFCC and you thereby committed an offence punishable under section 27 (3) of the EFCC Act 2004" In return, Igbinedion's had promised to refund N500m, 3 properties and pleaded guilty to the one - count charge. In agreement with the plea bargain, on

the 18th December 2008, the court convicted Igbinedion on that one-count charge and ordered him to refund N500m, forfeit 3 houses and sentenced him to 6 months' imprisonment or pay N3.6m as option of fine. There was a public outcry of disappointment by Nigerians over the judgment, which made the chairperson of the anti-corruption agency, Mrs. Farida Waziri to issue a statement that the plea bargain duly entered, fell short of its expectation. On 19 December 2008, the commission appealed against part of the decision of the court, regarding the fine; but nothing was heard of the appeal.

Again, on 18 February 2011 the commission filed a fresh 66- count charge of corruption and money laundering against Igbinedion and others at the Federal High Court, Benin City in Charge No FHC/B/HC/2011. He was accused of embezzling 25billion Naira when he was a Governor of Edo State. But on 31 May 2011, delivering ruling on a preliminary objection filed by Igbinedion's Counsel, the presiding judge, Justice Adamu Hosbon held that it would amount to double jeopardy and abuse of court process to try the former governor again as he had in 2008 entered a plea bargain with the commission at the Federal High Court Enugu. Consequently, Igbinedion's name was struck out from the 66- count charge.

Odia's (2011) observations reported in the media, capsulate the frustrations of many about the whole concept of plea bargain as pictured by Igbinedion's case is rooted in terrible legal advice, inefficiency, secrecy, and stinks of underhand dealings.

The highlights from Igbiniedion's case demonstrates the flaws in the plea-bargaining system as it stands in Nigeria, where the amounts bargained with are usually just a fraction of what was stolen. Some respondent's comments about the system allude to the fact that it encourages people to steal if they are only going to be asked to give back a fraction of what they stole.

95% of respondents do not agree with a plea-bargaining system. They claim Nigeria is too corrupt for a plea-bargaining process to be fully effective or utilised.

One respondent stated:

"...at the end of the day it is just like allowing someone who has defrauded the system to just go." system to just go. Let off the hook for little or no offence. Really....and to me is ...how could you have said...you are sure someone has stolen as much as 240 Million. All of a sudden you say oh because I can identify xyz properties to the tune of 80 million since I know those properties, I forfeit it to the government. I just walk away. To me this is not a punitive measure. Tomorrow what somebody is going to do is say ok let me go and amass as much as 1 billion and declare 200 million and then I walk away. Really....so I... I ... It's not working here because of our political system. That's my view" (N6 -10:52 - 11:06: Defence Barrister).

However, respondents argue (N1; N2) that this is a better route to retracting part of the stolen property and making good; as some high-profile cases have snow balled and lasted over four years; passed from one court to another to prolong the process of prosecution.

Other respondents maintained that engaging in a plea-bargaining process with high-profile individuals was the *best and quickest way* to

get the monies back given the situation in Nigeria, where a case can go through several trials depending on the wealth, prominence and “*godfather*” support of the individuals involved.

Some respondent cited that the courts should have *more control* in any plea-bargaining situation because some EFCC officials may be tempted with bribe so a low settlement amount is accepted. Respondents argued that unless the courts can set limits on reasonableness as per amounts looted, then perpetrators such as those involved in high profile cases can get away with paying very minimal amounts to rectify their crime.

“... in a situation where... corruption is so endemic in this country right now, and we are trying to stamp it out, you should not encourage people just dropping money and just walking away free” (N10).

“One of the problems that I find here is that it is not punitive enough. No deterrence....no significant effect. The EFCC gives rule for settlement – but no guide in respect of what should be done exactly. NO guidelines on the ground. Depends on party involved!” (N5).

The Government

The poor governance arrangements were cited as cause and consequence of the fraud in public office. Some respondents used the issue of poor governance to describe the corruption in the public sector, and assert that this will continue to encourage high profile individuals to commit crime with the confidence that they would get away with it.

The Agencies

Historically in Nigeria, the EFCC has been accused of being used for political tools and a partisan entity, because despite various reforms under different political rule there have been very little changes in the system. The responses from respondent allude to being sceptical about the integrity of the EFCC:

“EFCC because, they are known and termed as the hound dogs of the government. They send them out to pick on any one who is against the govt. Every time we made moves to move bail applications, the counsel representing the EFCC would come with fresh allegations. It was like a mad hatter theatre. This man (the client) ended up spending about 8 months in jail. The case is still ongoing but he eventually got bail.... Eventually” (N3).

Streamlining agencies has been suggested by many Nigerian citizens to reform the system and help fight fraud cases more effectively; calling for agencies such as the ICPC and the EFCC to join forces to tackle fraud. A few respondents saw the existence of multi agencies as duplicating efforts and a waste of resources. Furthermore, that the overlapping of responsibilities has produced loopholes in the anti-graft war, causing the agencies to lose cases and function ineffectively.

“I can argue for and against. In my own opinion, I believe we can leave them. There are instances where their functions overlap. EFCC is all encompassing. ICPC deals mostly with corruption in the system. There are things they can do that EFCC cannot do. You may not be able to go to the EFCC with that. They also do terrorism. I think it is better to leave them as they are. If they can strengthen them. There is too much interference. There are investigations that should have been concluded. From the attorney general or even the president. While Yara Dowa was there, Ibori was left roaming. In fact, he boasted that he was going to

get Ribadu out of the way. If they can strengthen the system so that we can be independent...” (N10 Barrister).

“Given the magnitude of fraud in our country, it is my opinion that rather than streamline these government organisations they should be strength end further. They should be made more independent of the executive arm of government, financially and otherwise. Streamlining the organisations would in my view further complicate the bureaucracy that has been partly the reason for the delay in prosecution of cases timorously” (N12 Barrister).

One respondent argued that they need to remain separated and compared them to the efforts of foreign agencies such as the FBI and CIAs or the Metropolitan Police and Scotland Yard. However, if you examine the way each agency was setup in Nigeria, they are not set up like Scotland Yard and Met Police because neither are their boundaries nor status over each other clearly defined.

Observed Operational issues at the Agencies

The Freedom of Information bill was passed in 2011, as an Act to make public records and information more freely available, provide for public access to public records and information, protect public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving public officers from adverse consequences of disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes and; for related matters. Despite the merits of the act, it

is evident that challenges remain to be addressed, such as the ongoing culture of secrecy, the slow process of judicial review, the lack of political will to implement the act and the fact that public officials still retain significant discretion as to whether to disclose information under the act. The short interactions with the EFCC through this study, showed an institution that was not consistently managed and transparent enough to show that public resources were sufficiently managed. The unnecessary challenges experienced when passed from one office to the other trying to get information, created more angst and distrust. There were instances where it wasn't clear where and how a case history was captured. But much of this wealth of data – like undiscovered oil – is remaining hidden and unexploited, because merely owning rich data and properly exploiting the opportunities are two quite different things.

Discussion

As at July 2016, some of these cases are still pending in courts since the governors have been re-elected in another government position and therefore shielded from prosecution due to the immunity clause; or may be stalled for political reasons. With so many pending trails and ex governors being arrested on similar grounds (embezzlement, conspiracy and money laundering), one would expect this would have served as a deterrent by now. Instead fresh arrests and allegations are made by the EFCC almost on a weekly basis; with the average aggregate sum stolen still in millions and billions.

Sentencing it would therefore seem from the sample of high profile cases were few and far between. A concern that laws should be uniformly applied has been expressed by the public via the media for many years. One concern about the disparity in the way high-profile individuals are punished also fails to express true indignation and condemnation necessary to send a clear message that such crimes are harmful to the state and will not be tolerated by the state. There was no mention of sanctions against the government ministries within which these crimes occurred.

Chantal Uwimana (2015), Regional Director for Sub-Saharan Africa at Transparency International describes the angst of many citizens and stakeholders all over the world when he said:

"Allowing the theft of public funds to go unpunished sends the wrong message that those with powerful connections can act with impunity. The case should have been fully prosecuted and the government has not given adequate reasons for dropping the charges" Uwimana (2015).

One common thread between these high-profile cases reviewed and from the answers given by participants, is that the cases went through a series of *procedural hoops* and were reviewed by several judges.

Very senior defence barristers were involved in these types of cases; highly paid and highly skilled, this perhaps explains why they understood how to manipulate the system. Sometimes, the cases were thrown out of court because it was not within its jurisdiction. So, it was not uncommon to read conclusive statements from the judges such as;

“I hold that this suit is an abuse of court process. In the light of the foregoing, I hold that this court lacks the jurisdiction to entertain the suit; and it is hereby struck out”.

In summary, the findings from the cases in Nigeria reveal that

- Only 3% of high-profile individuals received custodial sentences as well as fines. The custodial rates were disproportionate and far lower despite the seriousness of the offence and the amounts stolen. The custodial sentences were low. Cecilia spent most of hers in a luxurious hospital because of her illness claim. The study cannot conclusively state if this is because she was female. Other high-profile cases, where individuals were given custodial sentences, they were kept in a special wing of the prison. Their families were allowed to bring them food and they were not required to wear prison uniforms.
- High profile individuals are more likely to be given a chance to plea bargain; consequently, resulting in a small fine (usually disproportionate to the amount stolen) and with no custodial sentence.
- High profile cases are more likely to involve many procedural hoops and interruptions through Interlocutory appeals.
- High profile cases are more likely to get to an inconclusive end or disappear and remain unmentioned unless there is a protest, which is most likely brought on by a change in government.
- High profile individuals are often granted bail; and they often go on to commit further fraud in another public position.

- Based on the findings of this study, it appears that there is a link between the age, sex, the position of the perpetrator and the amounts stolen. The incidents involving the highest amounts stolen, occurred with older male executives who were senior officials of their organisation or in public (government) offices.

CHAPTER 8

Primary Findings:

A comparative perspective

A comparison of efforts in both countries promotes a greater understanding and interpretation of what the agencies tasked with eradicating and prosecuting occupational fraud are trying to do.

This chapter offers a closer understanding of how the perpetrators and their crimes compare in both countries; the type of occupational fraud committed and how their cases pass through the system to get a conviction.

The Types of Fraud

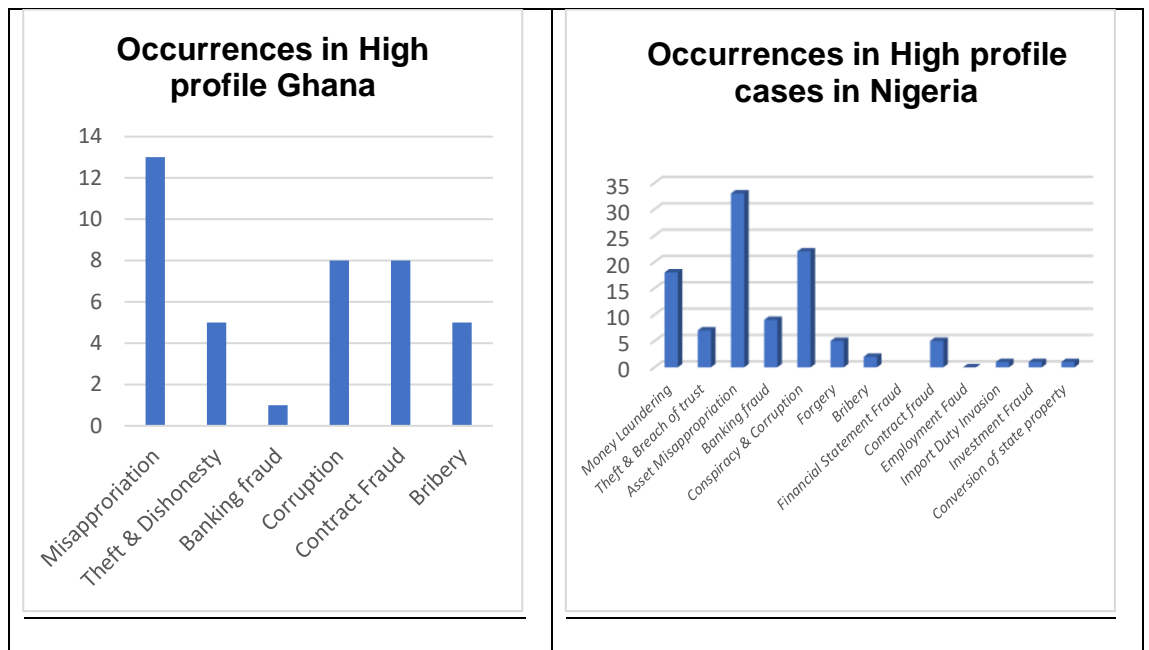


Chart 8.1. Types of cases in Ghana and Nigeria

This study revealed four main occupational fraud categories, in Ghana and Nigeria, namely Asset Misappropriation and Embezzlement, Corruption and Financial statement fraud. Chart 8.1 shows elements of the crime. Asset misappropriation and embezzlement occurred most in the sample of high profile cases in both countries.

Abel & Blackman (2014) help reiterate the seriousness of grand scale and systematic embezzlement of public funds, as an act which undermines the capacity of the state to manage resources and deliver services effectively. In Nigeria, despite huge economic growth in the past years the government has failed to manage and redistribute resources

fairly (Human Rights Watch 2012). The cases in this study highlight the gaps that can be caused in public budget put in place to develop the countries when vast amounts are stolen regularly.

Fraud in both countries remains as a matter of 'opportunity' as Cressey (1986) discovered. Majority of the types of fraud found in the case samples in both countries are almost identical and carried out in identical ways. However, there were no occurrences of currency recycling in Ghana which may suggest tighter controls may exist within the Ghanaian banks on this issue. It must be highlighted that tackling this sort of crime in Nigeria is neither a clear-cut case of putting in place "Know Your Employee" policies and procedures; nor is developing strategies for identifying, investigating and removing problem workers before they can inflict serious damage in any given organisation. More often than none, it's a case of the **opportunity** arising to make quick *kick-back* money. But also, in cases where instructions are given by a state governor or by a Director in the bank to lower-level staff, these instructions would be obeyed because of the fear of losing their job or to derive some sort of benefit. The study has highlighted instances where individuals become disgruntled in the process and then hand in anonymous petition.

What is significant is that cases bear the hallmarks of institutions that fail to put in place proper structures to regulate public positions. Take for instance the contract fraud where contracts are awarded to family members, friends or sometimes themselves. This a clear case of "conflict

of interest”. If the same amount of investigative effort is ploughed into the initial stage when the contract is awarded, many of these crimes can be avoided.

Tighter due diligence checks, however, are not the only remedy to the Occupational Fraud committed as the cases in this study have revealed how individuals use their positions to commit these distinctive crimes because they had access to greater opportunities and were viewed as “trusted,” (Cressey, 1998; Friedrich, 2004).

The findings suggest that the high-profile cases go through the court system in both countries; however, they have encountered different obstacles in the system. It is evident that there are sufficient structures in place to tackle this type of fraud, yet the perception is that nothing really happens to high profile perpetrators. Many respondents remain unconvinced that any improvement is possible in both countries as the government’s as well as agencies’ promises are absorbed as old rhetoric.

Evaluating the characteristics of perpetrators in high profile cases

Based on majority of the cases reviewed, the ideology behind the Elite Theory captures the activities of the high-profile perpetrators in Ghana and Nigeria, and is indicative of an appropriate description for these offenders. Previous scholars like **Sutherland (1983)** have failed to emphasise how the perceived level of prestige and status can contribute

to the power and position an individual holds in these countries; and the way it allows them to carry out occupational fraud. This gives the elite groups more control over property and people.

Neither biology, economic deprivation, psychological imbalance nor a broken home is a likely explanation for crime perpetrated by the high-profile individuals in Ghana and Nigeria. The individuals involved often live in an isolated world where their personal needs are lavishly catered for. They align their personal goal with the public funds they have access to. Somehow managing to detach their responsibility in their role from key factors such as 'Accountability,' 'Social Responsibility' and 'Performance'. Therefore, it can be argued that they purposely ignore the future outcomes or expectations of their roles. Many other issues such as the oath they took to serve the economy or the community are consequently ignored.

This study expands on Mulder's (1997) individualistic study, where all actors were individuals. The cases examined in this study distinguishes instances where an individual acts in terms of self (e.g. Lamptey in Ghana; Ibru in Nigeria) and others in which the perpetrator acts in terms of membership or with reference to an elite group or network (e.g. NSS in Ghana). Loyalty and obligation to a group or a godfather is an essential element of their crimes as the perpetrator feels protected when committing these crimes.

The Gender Perspective

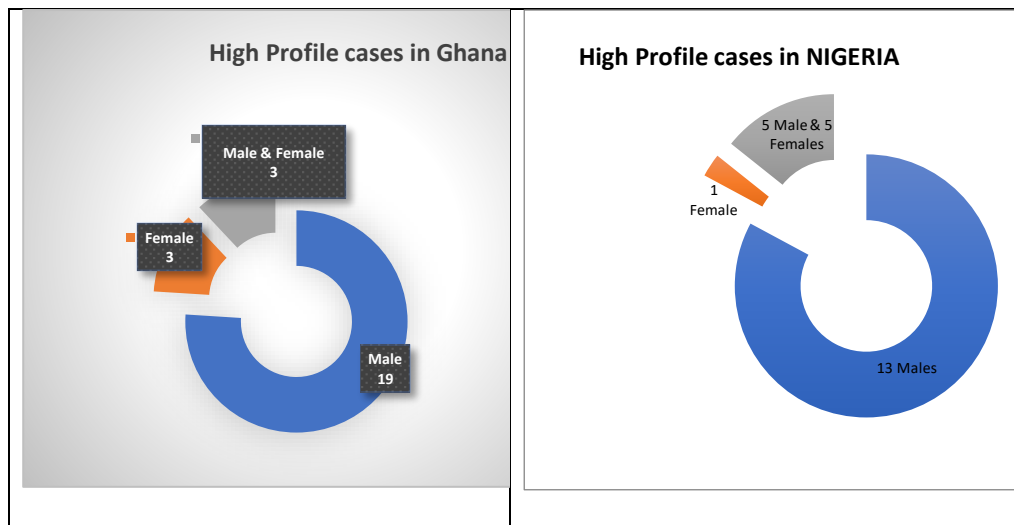


Chart 8.2. Gender split of High-profile cases

Findings from both Ghana and Nigeria reveal that majority of the types of occupational fraud were committed by male. In most cases in Nigeria, where women were involved, they acted as a team, in a complicated web, usually under the instruction or direction of a male. In Nigeria, about 1% of women were involved in the high-profile cases; while in Ghana 3 out of the 25 high profile cases involved women. Where the cases involved a mixed gender, the men were often the instigators or mastermind behind the schemes; where the female fell towards the end of the execution process.

The **consequences of culture** in this study's context, as discussed in chapter two, can help explain the disparity between the genders.

More women are working longer hours and seeking professional equalities to men but Ghana and Nigeria are still very traditional societies, consequently limiting women's opportunities to engage in fraudulent activities, but there is no empirical evidence that women

would act in a less fraudulent manner in these countries if they could access high-level decision-making or management positions in the public and the private sectors. Due to socially prescribed gender roles, women's dealings are often focused on being a housewife and mother and are outside the formal institutions, limiting their interaction and exposure to fraud. Based on the representation of women in business and politics in these two countries, it is understandable if they are understated where fraud occurs.

This was an interesting concept to examine in the context of Ghana and Nigeria, where culture prescribe that the women's primary role is to her home, so the expectation is for their jobs to allow that flexibility to have a balance between family and work commitments.

Women are also more risk-averse due to their social role within the backdrop of these two highly traditional countries. There will be far more of an impact on the family, if a woman gets prosecuted for crime. Women are also more vulnerable to punishment and the risks involved in committing fraud. With traditional values, women are more likely to consider these factors and the stigma it may have on them and their family if jailed. As a result, they may feel greater pressure to conform to existing societal norms and expectations.

Therefore, this research asserts that they are less likely to engage in any fraudulent activity for fear of being caught and losing their jobs.

The gender aspects of Occupational Fraud crimes Ghana and Nigeria, and the low participation rate of women can be attributed to the social

and cultural issues discussed in chapter two. These are issues that have not been captured in previous studies on both countries.

Detection of Occupational Fraud

The findings from the cases, reveals that tips are consistently the most common detection method for cases of occupational fraud in Nigeria. These tips were from colleagues or a customer. This observation was also confirmed by all the respondents interviewed.

Additionally, the data suggests that the likelihood of discovering fraud was not shaped by the size of the organisation, or the controls they have in place and but by the status of the perpetrators. Consequently, the detection methods varied between the high profile and Low-profile sample. The agencies were tipped off in majority of the High-profile cases. In some high-profile cases, it took additional actions like a public outcry for the agencies to proceed with investigations against prominent individuals.

One possible explanation for the disparities in the low-profile case sample, is that the controls and procedures at a lower level position affects how fraud schemes are detected: mainly because regular checks and balances are carried out daily or frequently. So, it takes a very lax system or a case of collaboration with a supervisor or manager for a scheme at this level to go undetected. A bank cashier for instance needs to balance her till to the system. However, in cases where there is collusion with a manager, it takes a spot check by an area manager to

discover if money is missing; or a tip off. But in cases where you have a manager or chief accountant acting alone detection may take longer. The findings reveal that majority of the frauds detected were by tip, so the existence and indeed the effectiveness of various forms of controls within the organisations need to be examined.

The Barriers to effective prosecutions

In Ghana, the most cited drivers and facilitators of occupational fraud were *corruption*, lack of political will, procedural clarity and of progressive training. Several respondents cited corruption as a facilitator of occupational fraud in Ghana. Others cited inadequate training on specialist knowledge such as 'forensic accounting' for the investigators as a hindrance. This type of expertise was viewed as a stumbling block in proving or supporting cases to get a successful conviction. Though sometimes the Ghanaian courts have been known to employ the help of large forensic firms like PWC and KPMG to help, inadequate funding was a barrier when it comes to employing the services of these top firms. This is not sustainable based on the frequency of occurrences of occupational fraud cases; adopting sophisticated machinery and expertise to carry out investigations and prove guilt would stretch the budgets of the agencies who have existing financial constraints; and it also supersedes the budgets of the courts. What is commendable about the system is the clear guidelines set out for dealing with cases. Though

in some cases difficult to abide by when it comes to *politically linked* candidates; like the Woyome case.

Some studies have described how the corruption and limited administrative capacity continue to pose the biggest challenges in Nigeria (Agbibo 2011; Darko, 2015b). Both countries are typified in excessively long legal procedures, with the judiciary system, more evidently reflecting characteristics of an almost dysfunctional and toothless system also falls prey to culturally accepted norms, where it is almost impossible to place high-profile individuals in Jail for any wrong doing or hold them duly accountable, Darko (2015b) termed as “*courtroom gymnastics*” in Ghana.

Sentencing of Occupational Fraud

As described by Hofstede (2001) in chapter two, *high Power Distance societies support inconsistency*. The powerful are entitled to privileges and are expected to use their power to increase their wealth. Formally everyone is equal before the law but in practice the powerful in most instances win or stall their cases. Their main sources of power are their family and social connections in the society.

The cases in this study reflects an imbalance in the system; more evident in Nigeria, where majority of the high-profile fraud cases remain inconclusive. The high-profile individuals are more likely to be given a chance to plea bargain and with no custodial sentences included.

In Nigeria, different or the same judges may fix different sentences for the same offence, offending and offender. No two cases followed the same pattern through the prosecution as some perpetrators were arraigned swiftly and others were reluctantly arrested or put through a trial process. Completely different sentences were handed out for cases which were generally the same or had similar criminal ingredients. The sentencing issued for the high-profile cases in Ghana and Nigeria were not always perceived as a symbolic expression of condemnation and blame. Understanding the complexities of Occupation Fraud in Ghana and Nigeria can be the game changer for the Agencies.

The findings allude to the premise that sentencing decisions are indirectly affected by retributions from perpetrators connected to powerful 'godfathers'. All these factors must be considered and balanced against each other.

Forfeiture and asset recovery

Though there are structures in place regarding forfeiture, it is under the court's discretion to stipulate how much is sufficient as punishment for the crime. Forfeiture and asset recovery in occupational fraud cases have proved challenging for the agencies involved in the cases. It gets very complicated and time consuming when proceeds are taken outside the country of origin. The high-profile cases in Nigeria such as Ibru, Ibori and Igbenedion cases gave rise to complicated situations where individuals had gone through great lengths to disguise the money. These

cases highlight how tracing and reclaiming assets in one case may take years as the countries involved need to prove rights over assets; and collaborations between various authorities in the jurisdictions need to be sought. In Ibori's case still ongoing and further complicated by the assets in the America Jurisdiction. Huge efforts by the EFCC led the over 100 properties being recovered from Ibru. Uwimana (2016) reiterates the urgency and importance of retrieving as much as possible from these fraud cases:

"The people of Nigeria are suffering from the economic downturn. They need to know that the government is using all of its resources to benefit public services. This requires a serious crackdown on corruption, as well as transparency when it comes to how recovered stolen assets will be used. Words are not enough,"

Uwimana, 2016: The Director of Africa for Transparency International).

The asset recovery process in the Nigerian cases, demonstrated more challenges as assets were hidden with other family member's names. In recent years, the agencies are recognising the need to employ more focus on the asset recovery processes for high profile individuals. But the Nigerian agencies need to stop 'piecemeal' reforms that are not directed to one specific type of fraud offence is clearly a waste of already scarce resources. Specific problem areas require specific responses.

It is not entirely clear how fines or money received from settlement of cases are currently re-distributed i.e. for government use or is it used to reimburse various parties that may have been affected by the crime. In some private cases involving fraud and private individuals, there is restitution and this is sometimes declared or announced on EFCC's

website or in the media. Ghana evidently has a more specific channel for recovering stolen monies via their Article 35, which offers the complainant a chance to rectify and make good. 9 out of the 25 cases reviewed in Ghana had either fully paid or had started the repayment process; this highlights the effectiveness the Section 35 Act. More cases have come to a conclusive end.

The cultural context

Culture plays a distinct role in influencing levels of fraud. It exists in societies that have good formal criminal laws. The importance placed on cultural values and characteristics, provide some rationalization for offending at this level. As per their country statistics on religion, both countries have very *high percentages of religious followers*, who take the act of worshipping very seriously; both Christians and Muslims (BBC, 2016). It is logical to expect that against this backdrop, the control over their citizens' behaviour would be easier with societies grounded and guided by pious morals when it comes to committing very high-level crimes like occupational fraud. Consequently, there should be evidence of the reduction of crime. There is evidently a disconnection between the principles of religion and the principles for survival and a modest standard of living. If one individual sees it fit to own several lavish houses, in and outside their country, purchased with public funds, then a religious stance cannot be claimed. Attitudes to these types of crimes have also changed over the years as the efforts observed of the current

ruling government is more effective when compared to previous government (Economist, 2016).

Sutherlands' theory ties in with the current perceived climate in Ghana and Nigeria and the behaviours of the elite when placed in high profile cases. Using their positions, they exploit public funds, because the opportunity exists and rationalise their behaviours (Shapiro, 1990; Simon, 1999). "Class consciousness" among the elite is very dominant in both systems, but perhaps more in Nigeria; where power has become increasingly concentrated at the top. Subsequently controlled and maintained with wealth. The issues Mills (1950) was preoccupied with in his analysis of the elite is however different from the cultural issues driving the behaviours of the Elites in both countries in this study. They are not as organised or coordinated as they often act for their own ultimate benefit. Using the data, it is possible therefore to assert that the factors driving the characteristics of high profile individuals can be distinguished in two ways: economic and social. In Occupational Fraud cases committed by the high-profile individuals, there is very little evidence of stealing to benefit their "own" i.e. family members or community; their activities reflect actions driven by greed and the need to amass as much as possible for their individual interest. If at all it is distributed it may be a fraction compared to what was stolen. Cecilia Ibru's case in Nigeria is a good example. Conversely, Ibori is said to have invested a great deal of wealth for the benefit of his village; where the

electrical system, water supply and various other infrastructures were improved during his tenure.

The economic context

The literature highlighted the high levels of inequalities, poverty, low employment levels, unemployment and the existence of a very high percentage of marginalised citizens in both countries. All these factors will continue to create not only an enabling platform but justification for groups of individuals to partake in occupational fraud. Perhaps more so with the low-profile criminals, from modest backgrounds.

The cases depict a picture of societies that are corrupt and filled with selfish individuals with little self-control, living in an amenable cultural environment; prompting individuals to easily engage in crime such as this. It seems the Politian's or high-profile individuals involved even if they were aware of the impact of their behaviour and actions on the public are not concerned that their behaviour will be under public scrutiny when caught; not to mention the global attention it also attracts.

The Media

The media has played a very significant role in both countries, with more effective outcomes in Ghana. The Nana Akufo-Addo, the president of Ghana, argue that the perception of the prevalence of Occupational Fraud may have been accentuated over the past years due to the

freedom of press. Various forms of media, report extensively on fraud matters involving high profile individuals regularly. However, the scope and extent of their reporting may be limited and more likely intimidated by the government in Nigeria. Some evidence from the reports of cases examined, show that some reports are often politically staged or supported; with some print media ownership linked to or owned by perpetrators. Conversely, in Ghana, there are too many media organisations to be dominated by any owners with party connections. Several of these media organisations publish a range of corruption stories that have caused the government to act, either by removing an offending minister or public officer; or has initiated investigations.

The counter fraud agencies and their effectiveness

The interrogation of the premise from the findings and the implicit assertions made by respondents or drawn from instances, allude to the judgement that the agencies are ineffective are surreptitiously controlled by the *“powers that be”*.

The counter fraud agencies' operating environment in both countries are still characterized as different organizations with overlapping roles and responsibilities. There are also ambiguities in inter-institutional relationships and a governmental infrastructure and culture that lacks in terms of its policies and practices to prevent, detect or deter corrupt practices in all areas and at all levels of the public administration system.

Though there are elaborate descriptions of its policies on their web pages, the reality is these are not fully in place when it comes to crimes committed by high profile individuals, judging from the length of time it takes for the crime to be discovered. However, this is understandable, based on the backdrop of a culture where it may be more beneficial to play along with the thieves.

Many respondents (prosecutors) say that EFCC probes are Ineffective; flawed in the selective constitution of its probe committee's setup and the processes used.

The evidence of a dysfunctional and ineffective anti-corruption agencies is manifested in numerous ways in both countries through their lack of total independence from the executive arms of the government; or lack of apparent success with majority of the high-profile cases prosecuted. But this is beyond their control, and as many respondents alluded to, they are surreptitiously controlled by the *"powers that be"*.

Back in 2007, the EFCC brought 170 charges against Mr Ibori in early December 2007 and later dropped all charges and entered a plea bargain agreement with Ibori in 2008. Duffield (2009) believed this was because he was one of the most wealthy and well-connected politicians in Nigeria. Ribadu, the former head of the EFCC was removed from his post just two weeks after the charges were brought against Mr Ibori.

This research also highlighted misdemeanours associated with the forfeited assets and monies that were put in the hands of the agencies

(EFCC and EOCO) for safekeeping; an agency that is meant to uphold honesty and transparency.

Corruption seem to have occurred in all arms of the government up to the judiciary. It is therefore difficult to have the confidence that these agencies can effectively operate under corrupt conditions and achieve their objectives. In Nigeria, more respondents perceived that the procedures for dealing with high profile cases are often ignored with hidden agendas to get the highest bidder (bribe).

For instance, back in 2007, when the EFCC brought 170 charges against Mr Ibori in early December 2007, they later dropped all charges and entered a plea bargain agreement with Ibori in 2008. Duffield (2009) believed this was because he was one of the most wealthy and well-connected politicians in Nigeria. Ribadu, the former head of the EFCC was removed from his post just two weeks after the charges were brought against Mr Ibori.

Their perceptions among the respondents alludes the claim that the law makers, the enforcement and execution arms break the same law they are supposed to be upholding.

Herein lays the dilemma for the policymakers (i.e. Buhari in Nigeria) who want to reduce corruption and improve governance. It may be desirable to enact policies to reduce corruption, a subdued commission who seem to fall at the bottom of a power triangle working within a system marred with accepted corruption leads to a reputation for symbolic reforms, which currently undermines the political leadership's credibility.

The study reveals *leadership issues* at all levels starting from the government itself; the anti-grafts establishment and individual, public officials in power. The executive managers need to keep a watchful eye. Contrary to some accounts, the fraud is not just ‘hiding in the board rooms’ as various cases highlight, but it involves various individuals (particularly mid-level as well as low level employees) Regardless of their level, the executives most often work in collusion with the mid-level staff to action/ enforce their plans. Media reports however often focus on the main perpetrators (the governor and high-profile individuals) when reporting on these cases.

Not only does the research shed light on the complex environment, it educates and focuses attention on a crucial element of “*true citizenship*” How do the average Nigerian see themselves. Perhaps a question for another research.

Sanctions, dismissals and prosecutions appear to be rare and poorly publicized throughout the Executive levels of the government office in Nigeria. The solution therefore goes beyond prevention – detection and reporting of fraud and corruption cases. We need to see more cases reaching to a clear, transparent conclusive point. Anyone who forms part of the pillars of governance should be held accountable.

The international response has always been a global call for improved governance. The findings of this study highlight the public bodies are

facing a major challenge when it comes to enforcing governance issues and monitoring high-level employees.

One common thread that tie between these cases, are the lax governance issues, as well as Accounting and Auditing standards. For instance, International Auditing Standard ISA 240 states “Collusion may cause the auditor to believe that audit evidence is persuasive when it is, in fact, false” It was not possible to ascertain if the Auditors picked up irregularities in yearly accounts; if the organisations were indeed audited. In Ghana, all accounting records are reviewed and submitted to the Auditor General’s office for scrutiny, however the processes in Nigeria is not transparent enough. This may be a good area for further research in Nigeria. Accountability and transparency issue are more of a problem in Nigeria than Ghana. One may ask why so called “public officers” would take on the challenge of a public role if they have no intention to carry out their duties the way they should i.e. in an honest manner. It begs further questions - why do they think they can act the way they do and get away with it? It boils down to a *breakdown in societal values as well an individual having that assurance that they are well connected in the society or have substantial backing from one prominent member of the society; substantial enough not to get prosecuted for any crime committed*. The Nigerian situation seem to be increasing with similar cases appearing on various headlines daily.

Close evaluation of the governance perspective in Ghana reveals weak monitoring arrangements in the system. Their anti-corruption style is

random, poorly planned and inadequately executed. Investigation processes can also be unnecessarily lengthy. This is evident in both countries, with inconsequential layers of enquiry. In Ghana, the GYEEDA case took several enquiries before the case was passed to court for prosecution.

This may have an adverse impact on agencies who already have limited resource reserves. Waiting for a case to end will also mean a delay in recouping of court fees. Evidence uncovered by the Fraud Review (2006: 69) helps to highlight the extent of this impact. Their study uncovered the following response from a Chief Constable to an organisation that had discovered a £100,000 employee fraud:

“The investigation is extremely expensive in terms of hours spent obtaining statements and preparing a prosecution case... (2006:69).

In Ghana and Nigeria's, the counter fraud agencies have been cited to be operating in an environment characterised by different organisations with overlapping roles and responsibilities. There are therefore ambiguities in inter-institutional relationships. The governmental infrastructure and culture still lacks in terms of its policies and practices to prevent, detect or deter corrupt practices in all areas and at all levels of the public administration system. This is evident in the cases in this study as well as those revealed in the media.

In Ghana, some senior politicians and officials who have been condemned or formally linked to corruption and fraud, for example, by the media and consequently the Parliament, have not been charged or prosecuted. Instead they are rewarded by being transferred to other back office governmental post. Such was the case of the former transport minister, Dzifa Aku Ativor and former commissioner of CHIRAJ, Vivian Lamtey. What is not evident are the administrative sanctions, dismissals and prosecutions. These are sometimes poorly publicized.

The new government under the authority of Buhari claim to be doing its best to exercise good leadership and control over this problem; trying to change the world's perspective on Nigeria's image, in a seemingly difficult and impossible environment (The Economist, 2016; BBC report May 2016- UK Conference). However, from the start, the government's resources have been predominantly focused on the retrieval of stolen funds that had been seized by foreign countries following convictions.

Justice and the judicial procedures

Although many high-profile cases remain inconclusive for many years, especially in Nigeria, there is evidence that the agencies do start and attempt to take these cases to court and they are stalled for many reasons. Some are politically linked and we may never find out unless a whistleblower decides to reveal like in the case of the "wikileaks" The findings in Nigeria revealed investigative and pre-trial procedures were

sometimes inconsistent; where thorough, coercive, and cumbersome and often tactics were used to deliberately make processes difficult; and more relaxed in some cases. Many respondents cited that the Nigerian courts do not act with any degree of autonomy and this has been the case for most of the cases analysed. Corruption remains widespread with 90% of the respondents perceiving the judiciary as corrupt. The findings reveal how the judiciary, through corrupt judges can affect the cases of the counter fraud agencies. Respondents in both countries hinted on how corruption in the judiciary and within other counter fraud bodies is key to ensuring public officers go unpunished for occupational fraud crimes and continue to maintain their positions as well as get further public post after their term may have finished. This predominantly includes Political interference, favouritism in the appointment of senior officials and judges, illegal payments.

One significant finding, was the difference in the length of custodial sentences despite the seriousness of the offence and the amounts stolen in both countries. Sapy Yankey and others in Ghana and Ibru's six-month sentence in Nigeria helps demonstrate this point. When you compare the length of time Cotton, a US based female accomplice in Sapy Yankey's case, she received a 15-year jail term in a US court and her three counterparts in this case received 4, 2 and 2 years. Beyond this point, when her sentence is compared to similar offences involving similar amounts in both samples in Ghana and Nigeria, the highest sentence received by any perpetrator was 10 years.

The findings highlight a need of a drastic paradigm shift, more so for Nigeria than Ghana; where power is shifted to the hands of the government and stakeholders who are genuinely interested in improving the society for the benefit of 'all'.

Social factors therefore need to be addressed, eliminated or made distant from economic decisions. The social factors highlighted in the findings seem to dictate how the societies function. The government do not appear to be powerful enough to influence these factors.

It is also clear that though 'Political Will' and other change drivers such as pressure from stakeholders are important, but, it is not in itself enough to create the change needed to control occupational fraud in Ghana and Nigeria. One respondent suggests:

"I have always argued the corner that both the Southern and Northern ruling class/elite Nigeria is a classic case of "to pull devil, pull baker". Each of the pair is as bad and big a rogue as the other. It is now clear to all and sundry that no matter what part of the country produces a leader; the leader is part of the rotten system. A bad tree will always produce rotten fruits, no matter what part of the tree you care to pick your fruits from. Nigeria has always been found wanting in radical disciplined visionary leadership, and no society can produce effective leadership when both citizenry and politicians / business men/religious leaders are rotten to the core. Any leadership is as good or as a bad as its people. A leadership will always reflect the predisposition of the people. Yes, what we need are honest, caring leaders with integrity and sense of legality, veracity and accountability, but alas, we are not even an inch close to achieving this. It is our value system that is seriously skewed, and not what part of the country a leader is coming from. Political history of the ages, spanning thousands of years has taught us that the vile, the venal, the bad, the ugly and the nasty in the corridors of power never leave the corridors of power willingly. They will kill, maim, manipulate and dissemble to remain in power. They are always forcefully flushed out by the people who have had enough of their maladministration and wickedness in government. Whether the majority of the Nigerian people are up to this type of seismic radical revolution is the BIG QUESTION?? Until this seismic radical revolution comes to pass, I am afraid the miasma of corruption and nefariousness in

government, in religious institutions, in business circles and in other high places will continue unabated ad infinitum. I think political history of the ages has taught us that real seismic revolutions are untrammelled and uncontrollable. (N15; Barrister)

Discussion

Using Hofstede (2001) and Mulder's theories to summarize this section, it is clear that the government in covert ways can hinder or drive any progress made by the agencies. They hinder progress by not exerting enough powers in Nigeria to support Whistleblowers; also by limiting the full transparency of case processes and the plea bargaining system. Consequently, this encourages more power for the powerful and also increases the power distance to the less powerful.

In countries where the power distance are great individuals are therefore less capable of reducing the power distance that exists. Ghana it seems have less power distance when compared to Nigeria, where its driving forces for change are the public and the media. The implication of Mulder's (1977) no.5 hypothesis here (as highlighted in chapter 2), is that over a period of time, they may succeed in shrinking the distance from the more powerful.

Overarching Similarities and Differences in Ghana and Nigeria

This study highlighted some similarities and difference in approach in both countries. There are practical lessons to be gleaned from, that will be useful for both countries.

This section encapsulates the similarities and differences of the cases and the prosecution processes in both countries.

Types of cases

Both countries have similar categories and profile of occupational fraud schemes occurring over the past years. Majority of them are committed or instigated by males. In one instance individuals from both Ghana and Nigeria were involved in one case. However, in Ghana, there were no instances of currency recycling scheme.

Gender

98% of the Occupational Fraud cases in both countries were carried out by male perpetrators.

Whistleblowers

Both have WhistleBlower Act. However, cases in Ghana emphasize that the system for protecting witnesses works e.g. the cases involving Anai

anai where several high-profile judges were exposed. In Nigerian, though whistleblowing occurs via petitions, some cases highlight very little protection for witnesses and trust in the system. Individuals put their lives at risk. There have been several instances when some witnesses and EFCC officials have been killed or threatened having been linked to some high-profile cases going through trial.

Earlier chapters have emphasized the role and strength of the media in both countries. Its role is significant enough in Ghana, as it is used as an additional and powerful tool to create awareness for crime, consequently it cannot be intimidated by the government; possibly because there are too many media organisations to be dominated by any owners with party connections. Seemingly, the media's influence on reports of Occupational Fraud in Ghana is effective, as several media organisations have publish fraud stories that have forced the government to react promptly, either by removing an offending minister or public officer; or has initiated investigations. In Nigeria, more petitions are raised directly with the agencies to draw attention to occupational fraud.

Plea bargaining system

Both countries operate a plea-bargaining system. But this appears to be more transparent and effective in Ghana where there are more instances of stolen funds being returned at the level at which it was stolen i.e. a higher percentage of stolen funds are recovered.

Independence of Agencies

There is very little evidence to emphasise the agencies' independence in both countries. The interviews and the media reports reaffirmed the perception of no trust in the government (2010 – 2016). Both Government are often accused of interference in high-profile cases. Some of the challenges faced by the agencies that resonates from the interviews can were linked to the fact that the agencies and the enforcement bodies are fully funded by the government. The dependency on either government funds allows for interference in their activities. Equally, the funding dependency on the government and outside donors also suggests that they may not be in full control of their own strategies, staffing and activities, where the directions some cases take, come across as covertly led by the government. The cases examined for this research highlighted how the government's power distance have influenced and directed the actions of the agencies when dealing with some high profile cases.

Prosecutions and Sentencing

Overall, the views of respondents on Occupational Fraud i.e. regarding prosecution, plea bargaining and sentencing were also similar in both countries, where majority of the comments from respondents alluded to an unequal system where cases involving elite members of the society or government official linked to prominent individuals escape the full impact of the law.

The inequality of sentences resonates in many ways. This notion is affirmed in the cases reviewed as well as the interviews with respondents. High ranking officials and politicians still enjoy a good degree of protection against prosecution. The underlying criminal conducts of defendants in the cases in both countries are similar, however the cases that have led to a successful conviction in Ghana are similar to those who go free in Nigeria.

In Ghana, the prolonged case of Woyome caused a lot of outraged and many linked it to his connections with president Mahama. However, other instances in anti-corruption activities (more encouraging in Ghana) show that even high-profile government officials are not safe from public scrutiny if they are found to be involved in illegal practices. This is reflected in the cases involving the high court Judges.

Significant delays in the prosecutions and sentencing of high profile cases are apparent in both countries. Their biggest challenges are often with enforcement. The delays or lack of progress as perceived by majority of the respondents are due to resource constraints, institutional inefficiencies and corruption in the Judiciary. Both countries have faced significant corruption problems within the Judiciary, where activities of corrupt judges were made public. Consequently, this has created a negative impact on the judiciary and the suppositions of respondents that the basic right to a fair trial may not exist anymore. In addition to promoting injustice and unfairness, the cases involving high court judges undermines the rule of law and confidence in the administration of justice. The fact that the courts and government have supported the

denunciation of several judges from their post; the police, prosecutors, and judges have been willing to investigate the country's most powerful politicians and business leaders highlights a shift in both countries' judicial independence. Evidently, the Judges had succeeded in exerting their powers over many in the past years. Perhaps an indication of a gradual shift of *power distance of the elite*.

Differences

This subsection describes the differences found in both countries based on the data analysed.

Transparency and accountability

Although the cases were similar, the differences lies mainly in the vagaries of the prosecution trail. Ghana seems to be more transparent and had more displays of accountability when dealing with Occupational Fraud cases that involved high profile individuals. Majority of its cases have gone through a public enquiry and a report was released to the public for majority of the concluded cases. The courts often confirm the outcome of the cases and the plea involved.

In Nigeria, many years have passed and majority of cases have not been concluded and the updates on the cases in this sample are inconclusive. However, in Nov 2017, a task force, the Corruption Trial Monitoring Committee (COTRIMO), was nominated to survey the six political zones in Nigeria to determine reasons why trials of some high-profile cases had

been stalled for many years. Out of the sample only two cases came to an appropriate conclusion in June 2018. The case involving the former governors of Taraba state and Plateau States, Reverend Jolly Nyame and Joshua Dariye, respectively, who were recently sentenced to 14years imprisonment by a high court of the Federal Capital Territory, which found them guilty of stealing and misappropriation of public funds.

The implication of Mulder's Power distance theory here, is that the less transparent the government chooses to be (by exerting its power), when dealing with these cases, the greater the degree of inequality created; the more the *power distance increases* and the greater the degrees of power held by the elite (powerful).

Annual Reports

The agencies in Nigeria go to great lengths to publish Annual Reports. This is set to improve as evidence from recent media coverage reveal revived efforts on the part of the National Judicial Council (NJC) to reporting the progress of ongoing high-profile cases (Vanguard, 2018). This is not the case in Ghana where there is little public information about cases on the Agencies' websites and no reports have been issued by the agencies over the past five years. The last official report on crimes tackled, cited on the web was in 2010. There website reveal very little activity. This makes it difficult to monitor or evaluate the overall performance of the Agency.

The Influence of the elite on case outcomes

The characteristic of a neo-patrimonial state described in chapter two embodies Ghana and Nigeria, where the end results of cases were significantly influenced by the power of the elites. But the values placed on justice in both countries are seemingly different.

The outcome of cases in Ghana illustrate a firmer stance pursuant to the dictates of its **Courts Act - 1993 (ACT 459) section 35** offered to all, giving any individual the chance to fully repay any stolen funds. The cases in Nigeria reveal that high-profile individuals are less likely to receive custodial sentences because they enter into a plea bargain. This often gets resolved with a small fine (usually disproportionate to the amount stolen) and no custodial sentence.

Both societies differ in the implication of their Whistle-blower Acts as evidence from the literature as well as these cases suggest that the implementation of the Act works better in Ghana where individuals can remain absolutely anonymous and their safety guaranteed with the support of the government.

The influence of the elite on cases is seemingly more distant to the laws in Ghana as more cases came to a conclusive end in Ghana when compared to the sample of similar cases in Nigeria. In agreement with Smith's (2007) perspective, it is not unusual that a person occupying a position within the government is expected to employ others from the same community or to spend public money that benefits his/her community. But the same loyalty is expected or given during a time of

crisis by a group or individual who has rendered financial help through his/her position while in power. Hofstede's (2001) and Mulder's (1977) hypotheses make it plausible to validate the societal settings in Ghana and Nigeria. The characteristics of the cultures and implication of hypothesis discussed in chapter 2 and 3 are exacerbated by the fact that the country relies heavily on these types of networks for the elites to function. These characteristics have serious implications on the countries as they are social drivers enabling fraud.

The review also highlights corruption as a societal norm embedded in the system; therefore causing various challenges for the government and the counter-fraud agencies.

CHAPTER 9

CONCLUSION

This research sought to contribute to existing theories of Occupational Fraud by using '*The consequences of Culture*' and '*Elite*' theories to explain high profile occurrences of occupational fraud in Ghana and Nigeria. Hofstede's theory was validated by data retrieved from three main sources; the fifty Occupational Fraud cases reviewed, media reports and interviews with barristers who deal with high profile fraud cases.

This research illustrates how the power distance as defined by Hofstede (2001) and Mulder (1977) is accepted by both the elites and subordinates (the less powerful) and is supported by the social and cultural environment in both countries. The activities of a few continue to drive an anti-development culture, consequently hindering the chances of any economic growth as well as ability to achieve full potentials as countries rich in natural resources.

Empirical Occupational Fraud studies on Ghana and Nigeria have overlooked critical elements in the systems; the impact of 'culture' and the role 'elites' play in facilitating these types of crimes.

Drawing on Schlegel and Weisburd's (1990) reasoning, it is easy to see how crime can be shaped and enabled by a corrupt culture; even though the society is grounded by frameworks and structures to help constrain

occupational fraud. This statistics highlighted in both countries are clear and grim but it is how we respond to this crime by the elite that is crucial.

Both countries have similar types of occupational fraud cases; majority of which are committed by men who are highly educated and mature. These individuals are certainly not deprived because they came from affluent backgrounds, neither are they left wanting for anything when their status in high positions already guarantees various official privileges, such as houses, cars, domestic staff, added to their remunerations. They feel an appointment to a high profile public service jobs is an automatic right to steal. So, one can only construe greed and selfishness from their acts.

This research confirms that prosecutions against high profile individuals evidently can and do happen in both countries. It identified some good practices leading to successfully charged cases and where fines were fervently pursued; but this was more evident in Ghana. Individuals in High profile cases are more likely to be given a chance to enter plea-bargain arrangements; where they are given a fine and asked to repay stolen monies. One commonality in both countries are the lengthy judicial processes, however, the findings indicate that there have been more successes in Ghana than in Nigeria when it comes to restitution. In Nigeria, several individuals like Ibori have been reported to have paid back a disproportionate amount compared to what they had stolen.

Both countries do not operate an egalitarians system, as they share the characteristics of Patronclientelism as the core basis of living;

manifested in different ways in their political environment, the economy and society. Individuals are likely to support political leaders from their own communities or ethnic groups, in the hope that they will benefit from greater opportunities if those politicians get into power (Willott, 2009). When these politicians rise into positions of power or control they commit various fraud to build their wealth and support their supporters.

There is also sufficient indication that the spread of donor support is substantial in both countries. Equally, the Legal framework is robust, but these stand-alone factors do not guarantee the success of any case at any given time in both countries. While there is some evidence of a systematic attempt by the government and counter fraud agencies to address fraud, the study suggests that there is still a massive indifference to allegations of corruption within the government and the anti-corruption agencies that hinders any progress. The respondents claimed the agencies are surreptitiously controlled by the *“powers that be”*. Furthermore, their accountability to several donors, such as the WorldBank, GACC, UNDP, USAID, DFID, plays a vital role in supporting the efficiencies of the counter fraud agencies in both countries, because it guarantees the flow of grants. Both countries have committed to the African Union Agenda 2063, Item 67; a plan to build a more prosperous Africa by the year 2063.

Following the premise of Hofstede (2001) theory of ‘Power Distance’ this study suggest, that the power distances are to a considerable extent societally determined. The big dilemma therefore, may not lie in how the

state reacts to the crime, nor the systems in place to mitigate them, but for how to change the attitude and behaviour of individuals operating in Ghana and Nigeria. This is all linked to the current culture, behaviours and accepted norms in both countries that helps to fuel the powers of the elite. There is therefore a pertinent need to strengthen the essence of integrity and true patriotism for the benefit of the masses.

The literature to some extent also reveals the political will of the Ghanaian and Nigerian governments. However, the respondent's confidence in the effectiveness of the agencies suggests that none of the agencies are regarded by the citizens as a 'success'. Political corruption continues to be seen as a bane for both, despite the existence of robust legal and institutional structures to combat it. Although Ghana in many ways leads with effective measures to mitigate the occupational fraud cases. For instance, Ghana's the Public Procurement Model of Excellence model, a procurement monitoring and evaluation tool developed by the PPA, has been used by the PPA to collect data and to assess the level of compliance and performance of Ghana's procurement entities. The PPA claims that corrupt practices have significantly reduced following the implementation of the Public Procurement Act 2003 (Amended in 2016) because of its potential for disciplinary measures.

This study should stimulate a rethink of the assumptions underpinning the perception and the prosecution processes when it comes to dealing with Occupational Fraud in these two countries.

LESSONS TO LEARN & PRACTICAL RECOMMENDATIONS

Extensive research is needed to obtain greater details on individual cases where there were inconsistency in prosecutions and sentencing. This should involve looking at a larger number of similar cases prosecuted in depth, over a period; perhaps by specific judges.

This research however, prescribes that more needs to be done to encourage a combined effort between counter fraud agencies in both countries to eradicate the selfish culture and attitudes to help drive economic transformation that creates equal wealth generation opportunities for all. Both countries can consequently concentrate on making progress towards their sustainable development goals. However the government has to be at the forefront of any agenda for improvement or eradication. Annan (2007) stresses this point succinctly in the statement below:

“Only when government is grounded in the rule of law — fairly and consistently applied — can society rest on a solid foundation. Leaders must ensure that the rules are respected — that they protect the rights and property of individual citizens. Leaders must also hold themselves to the same rules, the same restraints — never above them” (Annan, 2007).

A case against Immunity

In most of the reviewed cases in Ghana, public officials were immediately removed from their public position while investigations were carried out. There is a need for systematic reforms to take away the prosecution protection from all public servants, particularly in Nigeria, where many high profile public officials were protected from being prosecuted until their official tenure expires; but by which time they would have accumulated more loots and given them allowance to plan their exit and consequently disappearance so that they do not face prosecution. This was illustrated in several of the Nigerian cases reviewed in this study; such as the cases involving two former governors Dariye (2007), a former governor of Plateau state and Turaki (2011) former governor of Jigawa state. However, Dariye's case has since been concluded and he was sentenced in June 2018, and given a sixteen-year custodial sentence. This research highlighted that high-profile cases do indeed commence but are often stalled for many years, sometimes because these individuals are still in their official post, absconded or sometimes corruptly awarded a new official post or their tenure in these government positions extended to avoid prosecution. The cases in Nigeria demonstrates *the influence of the elite, culture and accepted norms*; a society where the godfather protection can guarantee continued tenure in a public post as long as power remains in the hands of the god fathers; whose powers are also linked to the political party in place. Many have argued that there should be no impunity for the corrupt in a country such as Nigeria where corruption and fraud is rife (Sani, 2016; Uwimana,

2016). Uwimana, the Regional Director for Sub-Saharan Africa at Transparency International have been driving this message for many years (Uwimana, 2016). No immunity will also make it more likely to start procedures to retrieve funds earlier. In cases where monies have been transferred abroad to places like Switzerland and the US where it can be a lengthy process to retrieve illicit funds as highlighted in chapter 4. Now that there is a Memorandum of Understanding (MOU) between Switzerland and Nigeria it is imperative for the government and agencies to stay alert with no room for delays; it will therefore be useful to introduce a system where public officials are removed from their positions with immediate effect when fraud is detected.

This is one of the reasons why Mbaku (2007) maintain that fraud will continue to infiltrate virtually all African countries such as Nigeria, is that most institutional arrangements in Africa today do not guarantee the supremacy of law and those that do, have failed to provide the mechanisms to enforce these guarantees.

In "Rule of Law: What Does It Mean?" Stein (2009) states that:

where the law is supreme, all citizens, including "government officials vested with either executive, legislative, or judicial power," do not place themselves above the law. Within such a system, citizens can effectively question, monitor, and challenge the activities of high profile individuals in public offices or their governors and leaders.

Such a check on the government in both countries by civil society can significantly enhance corporate responsibility and accountability, improve the effectiveness of the public sector and increase trust in the

government. Occupational Fraud by public officials is therefore indirectly encouraged by the granting of freedom or exemption from criminal prosecutions. That would demonstrate that the government does not have any political will to fight corruption. Consequently this will lead to *increased power distance*, allowing the powerful individuals to continue to thrive.

A case for more transparency

The concept of transparency represents a deliberate mechanism that ensures public access to information in a timely manner (Kolstad and Wiig 2009; Haufler 2010). Making sure such timely information is easily accessible to the public and all stakeholders is one critical method of making government accountable to all its citizen (Haufler 2010).

The government ministries and the agencies need to create an image that is akin with government policies and rhetoric regarding not only prosecutions and sentencing but also eliminating occupational fraud carried out by high profile individuals in public positions.

To help manage the economies and their public debt, there is a need for more prudent policies and measured approaches, where both governments make slow and practical steps; putting a time scale to these reforms with clear commitments from the government as well as agencies' will help this process.

More protection for Whistleblowers

Whistle-blowers across both countries must be protected and supported when they witness or suspect wrongdoing. But legal protection is uneven across the countries and often poor or non-existent in Nigeria. There are very few brave citizens like Anas in Ghana who have successfully uncovered fraud using his secret identity. But without legal protection such people take an immense risk. Some end up dead (EFCC, 2013) even though their disclosures or investigations were critical to protect the public interest. If both countries are serious about completely eradicating Occupational Fraud from the root, they need to uphold the Whistleblowers Act at all cost so that individuals get the appropriate protection and support. Perhaps both countries may benefit from more elusive investigative journalist such as “Anas in Ghana” where their true-identity are hidden as they carry out their investigative work and help uncover the unscrupulous deeds of many individuals, both low and high-profiled. Again, the culture in both countries differ when it comes to upholding the Whistlenblower Act; where in Ghana the act of Occupational fraud and perpetrators being hidden is not easily accepted by the majority of their citizens; the citizens speak out against it, as suggested by media reports.

A Shift in Focus

Focus needs to shift to the companies or entities within which the perpetrators operated and not only on the Individuals. All attention with

the help of the media, tend to focus on the guilty party rather than the corporations that allow these crimes to occur through lax governance. Penalties should also be imposed on the corporation such as reducing budgets. If public office budgets were affected or cut it might deter accomplices and reduce these crimes. Imposing huge fines on the auditors and industry regulators may also work. Though the fines may be absorbed as overheads and passed on to the community (consumers and shareholders). This said, the society at large (who are often the victim) pays doubly for the costs of the harm done to it. Coffee (1981) argues that when fines are imposed on a company, this may cause the company to collapse and employees may lose their jobs. However, these crimes involve more power public officers, so this will not happen. Perhaps the government can enforce cuts in budgets according to the size of the ministries; by reducing bonuses as an incentive to encourage better budget control. If others will be affected by an individual's act they may feel more inclined to report discrepancies or suspicious behaviours. This can generate income for agencies like the EFCC, ICPC and EOCO alike, who may be struggling for adequate funding.

Funding and resources

The agencies in both countries both receive assistance from their government and other international donors but they consistently suggest a need for more resources. The respondents also cited that financial constraints may limit the scope of the agencies' activities as well as their effectiveness. This study suggest that although there may be a need for

increased funding, the efficient management of funds might be an issue. Donors should take more action to make sure they receive substantial reports on how money are spent as this will give a clear indication if monies are spent in accordance with the agreement of any funds given. To avoid a further strain on the public budget, spending can be reviewed to see if it reflects best value for money.

Financial losses suffered by the organisations should be published

As a public body, the governing bodies, Institutional loopholes and not only the perpetrators' crimes should be reported in the media. Aside from whistle blowing schemes which already exist, the counter fraud agencies need to work closely with the government to established more warning systems, possibly IT based, put in place in all public establishment to curtail fraud. There should be frequent adhoc auditing of company books to match the amounts in the bank.

Publishing of resources, activity and impact should be mandatory in all public sector accounts and on their website:

All enforcement processes should be robust enough in both countries. Perhaps crime should be grouped according to value to justify all resources allocated to each case from the investigation to prosecution

process. As public entities, their accounts need to be published on the website. This is not currently the case for all agencies.

Crime reporting and statistics:

This study found various gaps in the way cases are reported and stored by the agencies. They need to be publicly accessible; whether on a website page or on one of its sites. The agencies need to improve the way crimes are reported to the public and on their websites to improve the comparability of their activities from year to year. The EFCC & ICPC in Nigeria, have more information on their websites when compared to EOCO, whose website had been undergoing construction since the start of this research. More emphasis is needed to give precise breakdown on the type of crime, demographics of offenders and their background in a systematic way. The statistics should give clearer indication on improvements to the system such as the impact of their activities on certain types of crime to reduce frequency. It should also show impacts on sectors involved from year to year. Possibly report on resources spent each year on various crime areas. Cases need to be reported in a clearer manner; consistent across the board; with significant information. The search engines on the websites do not function so it was difficult to search for specific information on cases on the agencies' websites.

While the reforms proposed in this chapter are necessary, it is not likely to be easy or immediate, based on the cultural backdrop and the norm imbibed in the societies, as described in the discussion chapters.

In Nigeria, the culture, governance and government contexts offer significant reasons as to why the country provide the wrong sort of environment for the counter agencies to be effective and 'successful'. In Ghana, the governance structures seem to be tighter, therefore stifling some cultural as well as elite influences; giving very little opportunity for these factors to play a distinctive role when it comes to discouraging occupational fraud and achieving justice in respect to all cases.

So, if both countries have the ambition to increase perceptions, join the top performing countries in the world and enable trustworthy interactions, then they need to start taking these suggestions seriously.

This study highlights various cultural issues as the main factors stopping the effective prosecution of cases. The study suggests that power distances are to a considerable extent societally determined. The governments, it would seem, now need to find proactive ways to address patriotism and develop a culture where each citizen believes their contribution is crucial to the rebranding of the country. Wilson (2004) argued that in a situation where there are huge loopholes in the system combined with laxity in legal and administrative systems, compounded by non-transparency and extensive discretionary powers at the hands of politicians, there is a need for concerted efforts to ensure strict enforcement of laws to achieve the purpose for which those laws were enacted.

Both government need to continue to be at the forefront for driving the agenda for change, with clear long-term plans and timescales for finding the right technology to work smarter and educating their workforce. Gleaning from the pragmatic solutions suggested by respondents, high profile individuals placed in public positions need to also dedicate themselves thoroughly to counter fraud policies as well as lead by example. This study demonstrates that the onus stretches far beyond the powers of the government. Circumventing this problem permanently therefore needs a wide-reaching re-application of Einstein's (1946) and Amrine's (1946) reasoning when it comes to a clean vision in respect to occupational fraud for these two countries. It is by delving and re-inventing the cultural values that is upheld, going beyond the same type of thinking that created the situation. The thinking of the perpetrators being;

“we are in the position to get away with it now, tomorrow will solve itself ...if caught”.