



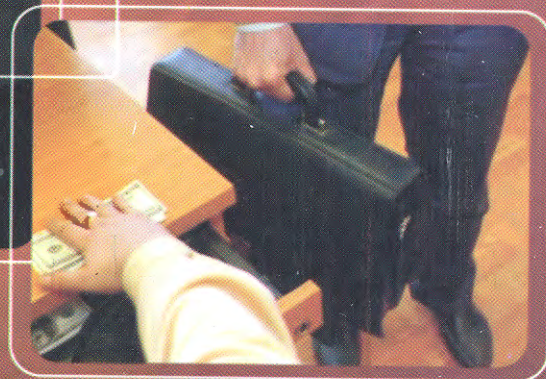
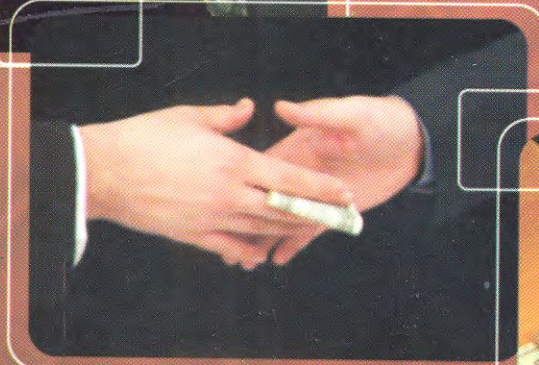
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# The Anti-Corruption War in Nigeria: A Critical Appraisal of the Role of the ICPC and EFCC

Sheriff Folarin

## Abstract

The anti-corruption regime of the last eight years has brought Nigeria to international spotlight in favourable terms. However, back at home, the crusade has come under heavy attacks, with many perceiving it as a pawn and political tool of the ruling party with which to frighten and neutralize opposition. However, anti-corruption war, prior to the time it started, was long overdue in Nigeria. It is pertinent to note that corruption has cost Nigeria a whopping 220 billion pounds since 1966. The ravaging effect of corruption on national development in Nigeria is, thus, stupendous. To check the malignancy of it, President Olusegun Obasanjo's administration instituted the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and Economic and Financial Crimes Commission (EFCC) established by the Anti-Corruption Acts of 2000 and 2002 respectively, to investigate, apprehend and prosecute individuals, groups and institutions found culpable or corrupt, and unearth frauds and recover public loots. This paper appraises the anti-corruption war, by critically evaluating the activities of the EFCC and ICPC. It observes that the war has not only been successful in curbing political corruption in Nigeria, but is also restoring confidence of the international community in Nigeria, and lubricating the country's foreign policy for economic development.

## Introduction

"In my assumption, our problem is not so much the problem of lack of finances, lack of equipment and weapons or indeed lack of training but rather our problem centres on the human factor."

- Ibrahim Babangida<sup>1</sup>

"We are having some very big names quaking in their boots, making

confessional statements and working out deals. It is the first time in Africa that a chief of police was hauled up before the courts for massive corruption, disgraced, and thrown out of police."

- Wole Soyinka<sup>2</sup>

"One may ask, why should Obasanjo's anti-corruption be so selective and at best, piece-meal? Obasanjo knows that virtually all the state governors are engaged in treasury looting, but in his own world of anti-corruption campaign you are not a thief until you cross path with the lord of manor."

- Leburah Ganago<sup>3</sup>

The foregoing statements represent the three perspectives from which the study looks at the anti-corruption crusade by the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in Nigeria; and indeed the findings from the undertaking namely: the human factor, which is incontrovertibly responsible for corruption and attendant social and economic downturns; and while the war against it is thriving, enhancing economic and social growth, and laundering the nation's image externally; the same war recognizes sacred cows to whom it turns blind eyes with the ICPC and EFCC probably becoming political spanners only to expose, fight and frustrate political opposition.

One of the major challenges that has faced Nigeria over the years is the issue of corruption and its debilitating ancillaries, including bribery, graft, fraud, manipulations, indiscipline and nepotism. Corruption has become so deep-seated that it has stunted growth in all sectors and has been the primary cause for Nigeria's socio-economic backwardness. This bequeathed an abnormal legacy of prebendal politics on the nation (Seteolu, 2004)<sup>4</sup> gravitating and manifesting in different ways at one time or the other, from "contractocracy" (1960s to 1980s), "settlementocracy" (mid 1980s to mid 1990s) to "kleptocracy" (1990s to date).

The embarrassing rate of corruption up to the late 1990s earned Nigeria a place in the top-ten of the world's most corrupt nations in the Transparency International Perception ranking index (2000).<sup>5</sup> Six years after the first ranking, Nigeria moved to number six from the second position demonstrating the impact of the drive of the anti-corruption crusade. Empowered by the Corrupt Practices and Other Related Offences Act of 2000, the ICPC was formed on 29 September as an apex body not under the control of any person or authority to fight corruption and other related offences (ICPC, 2006).<sup>6</sup> To boost the anti-corruption war and cover up the inadequacies of the ICPC, the EFCC was set up in 2002 to tackle economic and financial crimes, including international and advance fee fraud (419) for which Nigerians were infamously known globally, and money laundering (EFCC, 2002).<sup>7</sup>

The successes of the EFCC have been more far-reaching than those of the ICPC's. EFCC made unprecedented arrests of retired and serving officers, big shots in politics, governors, speakers of state legislative assemblies, bank and company chiefs, etc, and recoveries of looted funds. There are however, a huge number of persons and groups with questionable wealth who have not come under the organizations' scrutiny, thus heightening speculations that the anti-corruption war is selective and a ruse. These are the issues raised in this paper.

### **Background to Anti-Corruption Crusade**

Nigeria's external image suffered setbacks as it consistently remained the world's second most corrupt nation in the world in 2000, 2001 and 2002 (T1, 2005).<sup>8</sup> In 2005, it moved to the sixth position, showing "improvement" but obviously still among the most corrupt nations of the world. This development earned Nigeria a stigma in the international community at the national and individual levels-nations of the world became reluctant to invest in the country for fear of fraud, leaders' accounts overseas investigated and frozen, nations refusing Nigerians traveling documents like visa, and Nigerians living overseas perpetually harassed by security agents, closely watched and overly discriminated against (Okogie & Nnoli, 2005)<sup>9</sup>

The image crisis encountered were a culmination of the plethora of failed attempts in the past to eradicate or reduce corruption in the polity. From the Jaji Declaration in 1977 by Olusegun Obasanjo; the Ethical Revolution of Shagari in 1981-83; War Against Indiscipline by Buhari-Idiagbon in 1984; National Orientation Movement in 1986 and Mass Mobilization for Social Justice by Babangida in 1987; to the War Against Indiscipline and Corruption by Abacha in 1996; it has been a litany of woes between military and civilian leaderships in Nigeria to stem corruption.

The history of Nigeria from 1960 have been the accounts of misappropriation of funds, embezzlement or looting of treasury, prebendalism and "settlements" through grafts and contracts (Awoshakin, 2006). One of the reasons why the administration of Sir Abubakar Tafawa Balewa was overthrown by the military in 1966 was alleged crass materialism among his ministers and "corruption in high places" (Nzeogwu, 1966). According to Nzeogwu, the "enemies" were those "corrupt ministers, VIPs... in high places... the ten percenters (from fat contracts)... who have turned development back by several years... and who have made Nigeria big for nothing in international circles" (paraphrased) (cited in Obasanjo, 1987).

After the civil war in 1970, the three "Rs" (Rehabilitation, Reconciliation and Reconstruction) were massively embarked upon by the Gowon regime with the huge oil revenue that had characterized the war years. The oil fortunes soon

became a minus as it prompted the arbitrary and careless Udoji Salary Awards that over-monetized the economy, discouraged rural farming and constructed spatial inflation. The resultant situation was the over-prizing of money ahead of social values, which caused infidelity of market forces, embezzlement for increased financial capacity and gratifications (Adele, 1998).

The oil boom and windfall predated the era of jumbo and "white elephant" projects and inflated contract awards. Subsequently, the "Rs" era witnessed declining national morality with Gowon's Supreme Military Council members accused of unprecedented personal aggrandizement and arbitrary awards of jumbo project contracts to friends, relations and foreign partners (Diamond, 1998).

The military regimes of Murtala Mohammed and Olusegun Obasanjo benefited from a tremendous influx of oil money that increased 350% between 1973 and 1974, when oil prices skyrocketed, to 1979, when the military stepped down. Increased revenues permitted massive spending that, incidentally, was poorly planned and concentrated in urban areas. The oil boom was marred by a minor recession in 1978-79, but revenues rebounded until mid-1981. The increase in revenues made possible a rapid rise in income, especially for the urban middle class. There was a corresponding inflation, particularly in the price of food, as rural dwellers, who were the major producers of food, had begun to move to the urban centres in search of white collar jobs to benefit in the oil money (Eker, 1999). The urban centres soon became glutted and places like Lagos began to produce slums, shabby environs and criminally minded unemployed youth (Folarin, 2006).

The sudden wealth arising from oil, which dominated Nigeria's exports, encouraged greed, corruption and berthed the new trend among the political and military class to seek power by all means because of the opulence occurring from it. About \$2.8 billion of oil revenue was allegedly declared missing from the state affairs in 1978 as reckless spending characterized an unaccountable governance (Nwankwo, 1999). This prompted the Obasanjo Declaration at Jaji in 1977 signposting the commencement of the battle against the creeping culture of corruption, bribery and indiscipline.

Shagari's Ethical Revolution was to transform the society in which corruption and financial indiscipline had become pandemic. The term "revolution" denoted the gravity of the decadence, which could not be handled by Obasanjo's Jaji Declaration. The period of Ethical Revolution was marked by state officials amassing wealth from public parastatals, boards and ministries to stave off as much as possible in an emergent era of "oil doom" (that is, a time fortunes on oil revenue had declined considerably) with an interface of inflation and deflation. The Shagari administration responded by introducing Austerity Measures, a policy that caused severe social and economic hardships that encouraged treasury

looting, bribery, fraud and social crimes like robbery. It was this era that witnessed the phenomenon of arson-after-looting by officials in a bid to offset all records that could trace culprits. The Nigerian External Telecommunications (NET) building, among others, were the early victims/examples of this new dimension of corruption.

War Against Indiscipline (WAI) was a militant and practical-as against theoretical-approach to corruption and immorality pursued in 1984 by Generals Buhari and Idiagbon. Setting up military task forces, the "war" ranged from forcing market prices down, raiding illegal and informal "black-market" sales outlets, arresting and detaining corrupt politicians, sentencing corrupt offenders to life imprisonment or death; to compulsory environmental sanitation, maintenance of decorum at public places, queuing to board buses, trains, planes, to buy stamps at post offices, in making telephone calls, fetching water from public pipes, etc.

The measures were however considered too high-handed, stifling social life and used as a weapon to eliminate political and military opposition. The task forces were also accused of excesses, such as raiding to loot markets, assaulting "bloody civilians" and intimidating their petty foes or folk alike (Ake, 1987).

These attempts to curb corruption remained the situation till 1985 when the Babangida regime overthrew the Buhari administration on charges of "high handedness" among others. Babangida relaxed the "war" and rather commenced a social and economic reengineering policy, culminating in Structural Adjustment Programme (SAP). The programme, badly implemented, gave Nigeria away to foreign profiteers who collaborated with local capital cliques (including leadership and the economic class) to make fortunes through deregulation (privatization and commercialization). Soon the middle class paled into extinction, the gulf between the rich and the poor widened significantly, naira lost its value remarkably, and the social situation became unbearable for the masses (Osoba, 1993)

Indiscipline intensified in the polity: crime rate escalated; short-cuts to wealth through drug peddling, money rituals and reckless aggrandizement took dangerous dimensions; and money laundering and advance fee fraud (419) became phenomenal in the country. Three of these variants of corruption and indiscipline namely, drug peddling, money laundering and advance fee fraud or 419 were not only issues that made Nigeria lose its goodwill in the global community, but were also the triumvirate that became associated with the country during the Babangida regime of SAP. It was the combination of the Babangida and Abacha mismanagement of the regime of corruption in Nigeria that galvanized the international standing of the nation in 2000 as one of the most corrupt nations. Speculations were made that the two military rulers corruptly enriched

themselves and so could not have controlled the malaise because they were beneficiaries of it. The disappearance of the 5 billion dollars Gulf War oil windfall from 1991 to date added some credibility to this speculation; while government has confirmed reports in the case of Abacha that most of his loots have been recovered (Okojie & Momoh, 2005). This has been the story of Nigeria before the intervention of 2000 and 2002.

### **Theoretical Considerations: Corruption and its Dynamics**

Corruption is a generic term to describe acts that are considered immoral such as fraud, graft, bribery, stealing, perjury, lying, dishonesty, indiscipline, filthy and a debased act like sexual immorality or perversion. Economic and financial crimes are acts of corruption. Nepotism, favoritism or discrimination and partiality are also corrupt acts. Corruption thus represents a degeneration from the normal, i.e. an act that is adulterated: an anti-social behavior (Okojie & Momoh, 2005:1). By inference therefore, corruption goes beyond the narrow definition of the World Bank as the use of public office for private gain (Hulter and Shah, 2000).

For our purposes however, we will use the United Nation's guideline in its 'Manual on Anti-Corruption Policy III', which distinguishes two important corruption typologies namely, grand and petty corruption. Grand corruption represent such anti-state acts as looting, 419 scam, money laundering and operation of illegal foreign bank vaults by public officers and private individuals. Such other acts as immorality, dishonesty, perjury, though related to grand corruption, will be considered as petty corruption. From the above analysis, it does appear that the ICPC and EFCC are established to combat grand corruption. In their study, Okojie & Momoh (2005:2) aptly define grand corruption as an act which is widespread and systematic in nature and damaging to the local economy. To commit grand corruption is to commit economic crime and those who commit it should be regarded as 'economic criminals'. This theoretical and conceptual perspective captures our discourse of the role of ICPC and EFCC in combating grand corruption in Nigeria.

However, there is also the phenomenon of political corruption that further accomplishes the term, grand corruption.. Political or grand corruption, our main focus of discourse, brought much social decadence upon the Nigerian state, carrying along with it, such rotten baggages as godfatherism, influence peddling, rigging of elections, manipulation of and buying of votes, corrupt political financing, embezzlement in office and fraud. In his analysis, of the role of INEC, EFCC and ICPC in Nigeria's corruption war, Aiyede (2006) defines political corruption as the abuse of public or governmental power for illegitimate private advantage. For Lipset and Lenz(2000:112), it is an effort to secure wealth or power



through illegal means for private benefit at public expense. The anti-corruption law has identified the following as acts of corruption namely, the use of pecuniary advantage, insincerity in advice with a view to gaining advantage, less than a full day's work for a full day's pay, tardiness and laziness towards public office or tasks, failure to report cases of inducement to the anti-corruption bodies, etc(Akanbi, 2004, Aiyede, 2006: 39).

It is however pertinent at this juncture to examine the dynamics of corruption in Nigeria. In a classic lecture in 1992, Osisioma Nwoli<sup>25</sup> described "dynamics" of corruption as the systematic causation of the phenomenal issue. Put differently, dynamics have to do with the scientific and empirical study or understanding of the forces that compel corruption among public office holders.

Among the forces, poverty is identified as the most fundamental. In a study of an average Nigerian society (Ogbunwezeh, 2005), the fear of or the quest to quit poverty has been the driving force behind acts of grand corruption. Those in high places do not want to return to abjection after service. In a similar vein, people seek public office to initiate a change of financial state or fortunes. The escalating rate of poverty in the country caused by poorly implemented economic policies, misappropriation of funds, among others, culminate in state and mass poverty the fear of which drives people to capitalize on opportunities for enrichment. Other acts such as 419 scam, drug peddling and laundering are higher and 'private' manifestations of the poverty mentality syndrome. It is unfortunate however that as poverty engenders corruption, the latter perpetuates the spatial economy of abjection.

Second and closely related to the above is that social or societal pressures on public office holders and an affluent individual. Merton (1957) notes that much pressure is exerted on a public office holder or rich family member by members of his nuclear or extended family to assist them in one way or the other. This is as a result of the fact that a public office from local government councilor to senate President or accounts Manager to Director-General or chief Accountant is considered as a goldmine and proximity to the 'national cake' that should be wisely shared among family members by either sending some people to school, setting up businesses for some, rehabilitating some and helping in-laws here and there, among other pressures. These encourage tendencies toward official and political corruption, in the same way an individuals considered wealthy may be tempted to engage in fraud, money laundering or drug peddling in order not to disappoint his kinsmen (Ekeh, 1995).

Third and yet closely related is the 'social responsibility' paradigm in the functionalist model (Chinnoy, 1967). Naturally as status changes or increases, social responsibilities are bound to increase as more expectations, like pressures

and demands, are coming from people. An elected House of assembly member is not only expected to "deliver" at his ward and local government, but also to "take care" of a growing number of political associates, friends, political thugs, concubines or wives, and retinue of personal staff. A little inflation of contracts and figures here or there may thus be considered not be out of place; or adding '419' to his source of income for the non-public office holder may become desirable not to lose his status.

Political instability engenders political corruption. Frequent changes of power threaten security of office and by extension source of income. The political class, like their military counterparts, are tempted to steal as much many as possible while they last in office, as they are not sure of tenure of office anymore. Even under democratic rule, the frequent military-like appointment and dropping of Ministers, directors-general and other public office holders tacitly encourage corruption.

Other variables explicating corruption in Nigeria include the lingering impact of SAP, economic mismanagement, legacies or examples of past corrupt rulers and individuals, lack of accountability and transparency, lack of empirical outcome or tangible evidence of punishment of past corruption offenders, flaunting of ill-gotten wealth by individuals who seek political power with such means, abundance of sacred cows that walk freely in and out of corridors of power, and of course the culture of crass materialism that has no bounds of age gender and experience in the Nigerian value system (Azelama, 2002).

### **Anti-Corruption: ICPC and EFCC**

Olusegun Obasanjo's administration inherited the second most corrupt nation in 1999. Several probes into frauds spanning over fifty years were still on, while fresh cases emerged. Among the old inconclusive cases of corruption were the 1956 Foster-Sustton Inquiry into the Affairs of the African Continental Bank, 1960 Elias Commission of Inquiry into the Administration, Economics and Industrial Relations of the Nigerian Railway Corporation, 1965 Report of the Tribunal of Inquiry into the Affairs of the Nigerian Ports Authority, 1970 Inquiry into the Apapa Road Project, 1980 Tribunal of Inquiry into Crude oil sales, 1983 Ayo Irekefe Panel on Alleged #2.8 billion from NNPC's bank account in the UK, 1983 Tribunal of Inquiry into the republic Building Fire Incident, 1999 Christopher Kolade Commission into the award of Government Contracts, and the Idris Kuta Panel Report on the Award of Contracts by the Senate between June 1999 and July 2000 (Okojie & Momoh, 2005:18).

It was against this backdrop that the civilian administration of Obasanjo that had

vowed to combat corruption on May 29, 1999 instituted the Corrupt Practices and other Related Offences Act of 2000 establishing the ICPC. Inaugurated on September 29, 2000, the ICPC was made up of thirteen members, including the chairman. Section 3(14) of the Act ensures the independence of the Commission. The body, with retrieved Justice Mustapha Akanbi as its foundational chairman marked the first time in the age-long war against corruption that the effort would have the force of law with severe sanctions.

The ICPC was mandated to prohibit and prescribe punishment for corrupt practices, rid Nigeria of all forms of corrupt and related practices and restore the country to the enviable standard of respectability and dignity within the comity of nations. Section 6 of the Act confers three main responsibilities on the Commission namely:

- To receive and investigate reports of the conspiracy to commit, attempt to commit or actual commission of offences as created by the Act and in appropriate cases prosecute the offender(s)
- To examine, review and enforce the correction of corruption-prone systems and procedures of public bodies, with a view to eliminating or minimizing corruption in public life
- To educate and enlighten the public on and against corruption and related offences with a view to enlisting and fostering public support for the fight against corruption.

It is however pertinent to note that Section 27 of the Act reduces the [powers and by extension independence of action of the Commission. That portion of the law empowers the Commission to enquire only informal petitions orally made or written to an officer of the commission. Such allegations, treated with confidentiality are referred to the Investigation Department for preliminary investigations. The investigating officers then send a report to the legal Department to determine whether or not a prima facie case can be established. If a case is established, a charge is drafted with proof of evidence and filed before a designate high court. Where petitions do not fall under the offences provided for by the Act, such petitions are forwarded to the appropriate bodies such as the police, Public complaints commission, code of conduct Bureau, Human Rights Commission and the petitioners duly informed.

The fact that the ICPC can prosecute only by proxies not directly and that it receives informal petitions which pass through several stages until they get through other related bodies or the court of law for trials, if a prima facie case is established, shows the erosion of its effectiveness. Also, the cumbersome journey to prosecute a corruption case slows down the process to fight the malaise that has

become like malignant cancer in the polity. Moreover, the many petitions and litigations by and against it, bug it down. Several of its cases are pending in court while it has been able to prosecute only a few public office holders. Also, the commission was rendered useless when in 2003 the National Assembly scrapped it by revoking the 2000 Act setting it up and promulgating a bogus Act as a replacement. It took the only the intervention of the Abuja High Court to truncate this calculated attempt to kill the commission later, on the grounds that due process was ignored in passing the new act (Aiyede: 48).

Probably confirming the weakness and tendency towards manipulations the ICPC itself posits that anti-corruption would succeed if there is a synergy between the bodies fighting corruption and the leadership driving the vision (Ayoola). This probably speaks to the issue of the accusations trading between the President and the Vice President in August and September 2006 over corrupt acts, including illegal transactions, bribery, fraud and embezzlement with the view to enrichment (The Sun, 2006). The leadership's culpability weakens the anti-corruption regime. The lack of such synergy and fundamental lacuna provided by Section 27 of the ICPC Act of 2000 explain the lull at the Commission between 2000 and 2004, with many new cases of grand corrupt emerging demonstrating the failure of ICPC to check the phenomena; and reports of investigation panels piling up at the ICPC with no concrete counter-actions or prosecutions made. Until recently, the mystery scam of the 214 million dollar National Identity Card project between the Internal Affairs Ministry and SAGEM remained a riddle as the case appeared closed. Similarly, the allegation by some ministerial nominees in 2003 that Senate screening committee demanded #54 million bribe appears closed as the ICPC is silent on the issue. The body has carried on the task of anti-corruption by exposing, arresting and interrogating top individuals. The commission carried out the celebrated recovery of Abacha loots within and outside Nigeria and uncovered other large sums in foreign vaults (Jason, 2005). It also investigated contract awards between 2004 and 2006 the Saki East local government Boss, Mr. Ogunsola, (Punch, 2006); probed government officials in five states, including Akwa Ibom, Ekiti, Sokoto, Kano and Ondo state for corrupt related offences totaling #227 million and more recently launched its anti-corruption crusade in tertiary institutions to create a graft-free intellectual environment where future leaders are being groomed. Also, the commission's chairman Emmanuel Ayoola had claimed that there were already petitions against 24 serving state governors in the federation (ICPC, 2006).

The commission may be receiving petitions, apprehending and probing culprits, but it would need more than these to effectively deconstruct the culture of corruption in the nation. What this would require however is an amendment on the Act and the determination of whether the commission would be only a record

keeper or a truly independent body to speedily and judiciously tackle corrupt cases.

However, the ICPC has been able to prosecute some important cases including the National Identity Card scam involving SAGEM and government officials and serving minister mentioned above. It has also been collaborating with anti-corruption non-governmental organizations and has established anti-corruption clubs in schools to sensitize youths on the issue. Further, the ICPC has set up anti-corruption and transparency units in ministries and parastatals across the country. These are credits in the war against corruption by the commission.

### **EFCC and Anti-corruption**

The menace of financial and economic crimes which had battered both the economy and image of the country informed the establishment of the EFCC. The legal instrument backing the commission was the EFCC (Establishment) Act of 2002 with high level support from the presidency, legislature and key security and law enforcement agencies in the country.

The Act mandates the EFCC to combat financial and economic crimes and the commission is empowered to prevent, investigate, prosecute and penalize economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes, including the 1995 Money laundering act, advance fee fraud and other related offences act of 1995, failed banks (recovery of debts) and financial malpractices act of 1994, among others (EFCC,2006).

Also, the EFCC is charged with and has been investigating cases of abuse of office, official corruption, bribery of government officials, diversion of public funds through fraudulent award of contracts, corruption in land allocation, tax fraud, and, according to Aiyede(2006:49), electoral fraud in conjunction with the Independent Electoral Commission(INEC). By this act, the EFCC appears more effective than the ICPC as it has the powers to "prosecute and penalize" unlike the ICPC that is mandated to take petitions, investigate and prosecute only. The two bodies also differ in their status. While the ICPC is to be independent in all ramifications (albeit on paper), the EFCC enjoys "high level support" from all arms of government, particularly the presidency. Thirdly, while the ICPC can only deal with offences involving only government or state officials, the EFCC is mandated to tackle with the public and private sectors.

EFCC is also mandated to investigate illegal bunkering, terrorism, capital market fraud, cyber crime, banking fraud, etc. the advent of the EFCC has marked a turning point in Nigeria's anti-corruption crusade since independence. Ostensibly

sacred big-wigs in the economic, political and military classes have been investigated, arrested, detained and prosecuted. Among the successes of the EFCC have been the investigation and prosecution of Former Inspector-General of Police, Tafa Balogun on multiple charges, including using his office to embezzle 128 million dollars, Bayelsa state Governor, Diepreye Alamieyesegha also accused of many charges, particularly that of multiple money laundering abroad, who jumped bail and escaped to Nigeria from London, only to be impeached and arrested by EFCC for prosecution (ThisDay, 2006); recovery of #640 billion and over 500 people in money laundering battle since inception; arrest and prosecution of a senior Advocate of Nigeria (SAN), Ricky Tafa over financial seam and demand for the sum of over 200 million dollars as bribe from the chairman of Obat Oil limited between 2005 and April 2006; screening of national honor awardees; findings and charges against Governor Joshua Dariye of Plateau state, aides to Ayo Fayose of Ekiti state, Otunba Mike Adenuga of Globacom and Conoil and Mohammed Babangida, son of the former military president Ibrahim Babangida, among others, over alleged offences ranging from money laundering, embezzlement, fraud, misappropriation of funds, bribery, oil bunkering to shady contract deals (The News, 2006).

It took the intervention of the body to discover that part of the #1.6 billion ecological fund mismanaged by the former Plateau State Governor, Joshua Dariye was donated to the ruling Peoples Democratic Party (Aiyede, 2006: 50). The EFCC also uncovered the #50 million scandal involving a Minister of Education, Professor Fabian Osuji in allocation deals with the National Assembly and the NUC, which eventually led to his removal, and the illegal sales of government's landed property. This illegal sale and allocation of public estates declared for sale which was investigated found a Minister, Osomo culpable which led to her removal from office. There have also been the unearthing of cases of huge nepotism involved in the awards of contracts and investigation of many abandoned projects in local councils, states and those handled by the Federal Government (Anwana, 2006).

The September 27 EFCC's allegations of varied cases of grave acts of corruption against 31 serving state governors at the floor of the National Assembly represented a milestone in the anti-corruption crusade. The commission's Chairman, Nuhu Ribadu made a case against the governors challenging them to waive their immunity so that his agency could be enabled to prosecute them (The Guardian, 2006). This allegation, although lampooned and described as baseless, constituted the first major confrontation of corruption at the very top in Nigeria.

Despite the marked achievements of the EFCC, the commission is faced with some challenges. First, contrary to its Act mandating it to penalize economic and financial criminals, the commission has not been able to penalize beyond

recovering of loots or money laundered and prosecuting in normal courts of law. Second, the prosecution sometimes takes a longer time than expected and often "die a natural death" unless the cases have political undertones. Third, the direct influence the presidency has over the EFCC erodes its independence, credibility and sense of objectivity. Forth, the direction and concentration on politicians and non-politicians who have openly demonstrated stakes or interests to protect in politics by the organisation has tended to distract it from many other economic and financial criminals who have never come under any scrutiny or been listed for investigation (Balarabe, 2006).

Further, the EFCC has been accused of failing to investigate the financial crimes that were said to have characterized the 2003 Presidential and Gubernatorial elections, in which the PDP was returned to power at the centre and forced its way to power in many states. Also tainting the image of the commission is its inability to investigate the allegation of bribery in the National Assembly during the debate on the failed Constitutional Amendment Bill that sought to extend the tenure of President Obasanjo and other state executives by another term. The commission in a study by Albert (2006:19) has also been accused of disregarding the rule of law: for instance, it froze the account of Governor Dariye in contempt to a subsisting Federal High Court order earlier forbidding it.

Again, probably, because of its close affinities to the presidency, the commission has problem with uncovering cases of corruption involving many serving public officers and others who appear to be in the good books of the presidency. This is considered a major setback of the anti-corruption drive.

### **Problems with Anti-Corruption in Nigeria**

The institutional weaknesses of the ICPC, EFCC and the Due Process Commission are the first set of brick walls in Nigeria's fight against corruption. The intuitions, by their acts of omission and commission, appear to lack complete independence. The ICPC is very slow to act and cannot, *strictu sensu*, prosecute; while the seemingly effective EFCC can prosecute but appears incapable of penalizing. The close affinities ICPC and EFCC have with the presidency that created them in the first place, have made the two to appear like instruments of state coercion and victimization of perceived and real enemies of the civilian administration.

The above scenario is made credible by the selective investigations and prosecutions by both commissions, particularly in handling cases of corruption involving politicians and those in the private sector who condemn federal government policies or opposed to the aborted third term bid by former President Olusegun Obasanjo. Among those who were in the Federal government's white

list until they took side in the opposition camp in one way or the other, are Tafa Balogun, Fabian Osuji, Alamieyesegha, Joshua Dariye, Bola Tinubu, Orji Uzor Kalu, Mike Adenuga and Ibrahim Babangida and Abubakar Atiku (The News, 2006; Ganago, 2006). The EFCC and the entire anti-corruption machine seem to overlook corrupt cases and corrupt persons and groups until they begin to oppose the president on his policies and personal decisions affecting governance (Jason, 2006).

This brings us to the issue of certain ignored or "closed" or "forgotten" cases of alleged corruption. For instance, the allegations by Nasir El-Rufai, Minister of the Federal Capital Territory (Abuja) that two senators close to Obasanjo, Deputy Senate President Ibrahim Mantu and Senate Majority leader, Jonathan Zwingina asked him for a bribe of #54 million to secure approval for appointment (Dike, 2005) appear consigned in the waste bin of history. Again, the whereabouts of recovered Abacha loots declared by the Presidency since 1999-2000 are not known nor can what it has been used for be ascertained. Also, the Gulf War oil windfall of 1991 made under General Ibrahim Babangida's regime, which cannot be traced to date, is an obvious case of embezzlement that neither the EFCC nor ICPC has investigated or shown any willingness to take up. Moreover, there are also the copious cases of jumbo contracts, "white elephant" and abandoned projects between 1976 and 1983 that are no longer mentioned.

The overt politicization of the anti-corruption crusade has made the fight against corruption a means to witch-hunt people the presidency may not want to succeed it. The Abubakar Atiku case is apposite to locate within this frame of argument. Until Vice President Atiku made it apparent that he would like to succeed Obasanjo and demanded the latter's exit in 2007, the two of them were trusted political allies. From 2005 however, Atiku vehemently opposed President Obasanjo's third term bid which he considered as an obstacle to his ambition. Shortly, the relationship between the two collapsed and soon after, EFCC and president Obasanjo himself, laid charges of corruption against Atiku (The News: 20). This development, like many others in which "anti-Obasanjo" politicians (Independent, 2006) are involved, have made observers to call ICPC and EFCC Obasanjo's bulldogs against political enemies (Makarfi, 2006).

It is however pertinent to note that the victims of the political witch-hunt are themselves culpable, which explains their successful investigation and removal like Balogun, Osuji, Alamieyesegha, Osomo, etc; but these are also many allegations and cases not looked into as earlier mentioned, because such cases involve those supportive of the present administration. (ThisDay, 2006). Those politicians not culpable but who opposed the third term have been prosecuted on trumped up charges outside corruption and removed. They include Governor Rasheed Ladoja of Oyo state, Speaker of the Oyo state House of assembly,



Governor Chris Ngige, speaker of Bayelsa state House of Assembly, etc. Their removal represents the promotion and institutionalization of political corruption by a government combating other forms of corruption, particularly economic and financial.

From the foregoing, it thus becomes evident that EFCC and ICPC are sometimes the means which government crushes opposition in its bid to have its way at all cost. The fight against corruption thus loses steam because of its lack of focus, principles, independence, effectiveness and as a result of its double standards and selective justice.

Aside the major lacuna created by politics and politicization in the combat against corruption in Nigeria, there are also constitutional constraints. First, it is worthy of note that the number of persons convicted by the courts is quite small in comparison to the Allegations. Both the ICPC and EFCC have been tinted that they have prima facie evidence of wrong-doing against a majority of former state governors, the commissioners were unable to prosecute them because of restraining legal frameworks. The EFCC claims that the state governors, altogether, hold asserts worth 175 billion dollars in foreign accounts. Under the current law, the governors can not be the subject of criminal action until they cease to hold public office (Akinseye George, 2000; Newsweek, 2005).

According to the 1999 Federal Constitution, immunity is conferred on 74 public office holders, including the president, vice-President, 36 STATE Governors, and 36 Deputy Governors, who can neither have criminal proceedings instituted against them or be arrested or imprisoned while in office. These provisions have come under criticisms and blamed for hindering anti-corruption because it is mainly top public office holders that commit heinous economic and financial crimes and they hide under immunity throughout their tenure spanning four years or eight years if they embark on second term. For instance, Nigeria's Former Finance Minister, Okonjo-Iweala claimed that most governors embark on foreign trips immediately after allocations from the Federal government, but they cannot be apprehended or accused because a fig-leaf for money-laundering (Independent, 2006).

It is interesting to note that public office holders who are originally prevented by this section of the 1999 constitution from politically motivated litigation, now suffer from "mobutuism", that is systematic and widespread pillage of state wealth built on deceit as the EFCC and ICPC helplessly watch corruption grow (Okojie & Momoh, 2005).

The other problems of anti-corruption in Nigeria include the intense rate of corruption despite the anti-corruption law which becomes too enormous for the commissions to handle as only the reported or discovered cases that already

inundate the bodies' tables can be looked into one after the other; perjury on the part of culprits and distortions in fact-finding or panels of inquiry reports, manipulations of information and records, and destruction of records or traces of corruption; and general lack of cooperation with the crusade either for lack of faith in it or because of the overwhelming culture of corruption across the nation.

### **Anti-Corruption and Nigeria's External Relations**

"Our leaders are not fighting corruption because they believe in it, but to look good before the West"

- Ishola Williams<sup>26</sup>

whatever the case may be, the anti-corruption crusade is earning Nigeria international support and respect and indeed laundering the nation's image battered between 1985 and 1998. in a testimony in Washington, Linda Thomas-Greenfield, Deputy Assistant Secretary for African Affairs (2006: 2), affirms that :

The EFCC and ICPC have taken on corrupt government officials. They have identified and recovered ill-gotten gains from notable Nigerian Officials. These are important and symbolic measures... The government continues to combat corruption on various levels and in several areas. Our support of the EFCC is part of a broader effort to work with Nigerian law enforcement agencies to combat corruption and international crimes.

The United States demonstrated its faith in Nigeria's anti-corruption crusade by donating 1 million dollars in technical assistance to EFCC and trained over 800 ICPC and EFCC prosecutors. The US also assisted Nigeria through the Africa Growth and opportunity act (AGOA), the US- Nigeria Trade and Investment Framework Agreement (TIFA), African Union Peer Review Process and the G8 to fight Nigerian economic and financial criminals abroad (US Department of State, 2006).

The war against corruption in Nigeria also encouraged the west to reconsider its proposition for debt cancellation, which between 2005 and 2006, made major creditor-nations in the industrialized North to reduce or cancel Nigeria's debt commitments to them. Corruption was as obstacle to this call hitherto as the horrific rate of it was considered by the creditor and donor-nations as making Nigeria lack the moral ground to seek debt cancellation (Nigeria Direct, 2006). It is important to note that Nigeria huge indebtedness was a result of loans from international clubs that were embezzled or mismanaged. The international community has been collaborating with the EFCC and ICPC in exposing consortia, firms, agencies, banks and individuals from Nigeria that engage in financial scam

and laundering. For instance, the Federal Bureau of Investigation and the US Attorney's office, department of Justice, wrote to the EFCC in June 2006 requesting assistance in business transactions involving IGATE, an American company and Netlink Digital Television (NDTV) and IGATE/ Rosecom, which were allegedly marred by conspiracy, wire fraud and bribery of both American and Nigerian partners (The News, 2006). In a similar way, in 2005, the US energy services company, Halliburton disclosed in filings to the Securities and Exchange Commission in Nigeria that its Kellogg, Brown and Root (KBR) subsidiary had paid bribes totally 2.5 million dollars to Nigerian officials to obtain a favorable tax assessment. Also, an international consortium building a liquefied natural gas plant in Nigeria came under investigation in France for the suspected payment of bribes totaling 180 million dollars to obtain construction contracts whose value has grown over time to 6 billion dollars. (Tell, 2006).

There is no doubt that the anti-corruption crusade is seen in good light overseas. It has helped to put Nigeria back in global reckoning, with gradual obliteration of the pernicious Babangida and Abacha legacies. While the faith in the fight on corruption is expressed by reduced and cancelled debts on the one hand, foreign investment has also been aided, as investors now have fewer problems of fraud, bribery and an uneasy investment climate to contend with.

However, the politicization of the war on corruption may begin to reduce the credibility of the crusade. The tendency towards criminalizing many people for political reasons may rather increase international fear that Nigeria is infested by criminals and it would be impossible to eliminate all of them or eradicate corruption. The open accusations between former President Obasanjo and his Vice, Atiku did not add credibility to Nigeria's anti-corruption crusade. They amount to a show of shame and the fact that even the initiators of the war on corruption are themselves "very dirty" and that the EFCC and ICPC may just be another deceit to the world that the government is fighting what it recklessly engages in.

## Conclusion

This paper identified the challenges of corruption in Nigeria and how the Obasanjo-Atiku administration tried to combat it. It is however ironic that the same administration combating corruption had its presidency trading accusations on grand corruption. The paper however looked at the strengths and weaknesses of the EFCC and ICPC and the innocuous problems puncturing the anti-corruption campaign. The article identified the following as the problems created by corruption for nation-building viz:

- a. poverty and the burden of governance

- b. economic and structural underdevelopment
- c. inability to control other kinds of crime
- d. increased indebtedness to other nations and inability to service previous debts
- e. failure of institutions to work
- f. inefficiency in productivity and poor quality of service
- g. employment of mediocrities
- h. endangerment of lives of citizens
- i. reduction in accountability of legislative bodies and distortion of representation in policy making
- j. compromising of the rule of law by the judiciary
- k. unfair and inefficient provision of services of public administrators
- l. erosion of institutional capacity of government because of disregard for procedures and due process
- m. undermining of the legitimacy of government and democratic values of trust and tolerance.
- n. Poor international image.

The dangerous consequences of corruption for the nation make it imperative that the anti-corruption war should be intense and backed by new and systematic strategies. The following are recommended ways to secure the generations from malignant corruption:

- i. Attitudinal change of the people should be the focus and hence government should not only be looking out for culprits to penalize. Attitudinal change is possible through the pursuit of people-oriented economic policies and programmes and by a systematic policy of re-orientation. Character-education also needs to be added to the school curriculum like the Total Man concept (TMC) in Covenant University in Nigeria.
- ii. An evenhanded and transparent prosecution of corruption in politics can build Nigerians' confidence in the accountability of their elected officials and strengthen the democratic institutions.
- iii. Good governance will also strengthen the transparent and effective use of public and donor resources and encourage increased investment and growth in Nigeria.
- iv. Overhauling the police and regular investigation of police corruption will help to effectively reduce corruption in the other areas.
- v. The EFCC has a difficult balancing act in the political terrains. The commission must prosecute corrupt public officials while avoiding politically motivated prosecutions. The public must see the EFCC's

operations as credible, impartial and fair; otherwise, its hard work will fail in its major mission of creating a new culture of accountability and opposition to corruption.

- vi. There is also need for government to adopt pro-family policies such as adopting a good reward system, paying workers basic salary and retirement benefits, regularly, etc so as to combat poverty which is the greatest cause of corruption.
- vii. Lastly, government should not just disgrace convicted corrupt officials or persons and consign them to eternal ridicule, but rehabilitate and use such persons in the campaign against corruption.

## Notes and References

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4. These transitions have in some cases, been characterized by continuities and reoccurrences.
5. Osisioma Nwolise, PhD a Senior Lecturer in the Department of Political Science, University of Ibadan made the submission in a series of lectures on Dynamics of Corruption in 1992.
6. Ishola Williams, a retired Major-General of the Nigerian Army and President of the Nigerian Chapter of Transparency International, made the submission in 2005 while evaluating the anti-corruption regime.

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