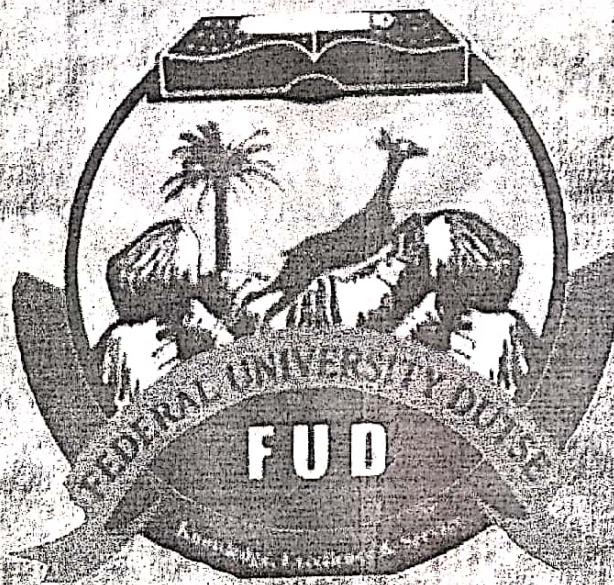


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Anti-Corruption Crusade and Rule of Law in Nigeria: Prospects and Perils

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Abstract

Corruption is a dangerous trend that it is both endemic and pandemic in Nigeria. It is a deadly infection and once it is allowed to grow in any human environment, it is difficult to combat. Corruption goes beyond budget padding, bribery and embezzlement of public fund; it is a decay and mistrust inherent in social, political and economic fabrics of the Country. It is an act that negates established rules and norms of the Society. Rule of law predisposes adherence to the provisions of the Constitution most especially, guarantee of fundamental human rights of all Citizens. However, Nigeria's history of corruption can be traced back to colonial era, it became prominent in early 1990's and since then it has become canker-worm in the development drive of the country. This paper examines the effort of the current administration in fighting the menace, extricates the prospects and challenges of taming the monster. The study combined both primary and secondary sources of data collection and analyzed it qualitatively. Findings reveals that corruption has become daily activity in Nigeria and Rule of Law cannot adequately confront the problem because most of those involved in the act are also active members of the elite class that are making law for the country. Therefore, the paper recommends that Corruption should be tackled with carrot and stick approach

Keywords: Ant-Corruption, Rule of Law, Crusade, Elite Class, Endemic

Introduction

Corruption is a global phenomenon that exists in various degrees across different countries in the international system. Whereas, it may be endemic in some countries like Nigeria where the corruption perception index is 148 of 180 having scored 28 out of 100. Analysis holds that is highly clean and 0 is highly corrupt, it could also be moderate or low in others (CPI, 2018). For instance, corruption is not highly placed at developed countries of the world, that is, in countries like the United States, Britain, France, Greece, Japan and Italy. This is not so in the developing or the third world countries which virtually consist of African states whose abnormal level of development has been owned to corruption.

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However, the level by which corruption has really eaten deep into the Nigeria state and has become so alarming. This is evident in the statement made by United Kingdom Prime Minister David Cameron who posited that "Nigeria is fantastically corrupt". It is an understatement that corruption has eaten deep in Nigeria System and major bane to Nigerias development. Without mincing words, the phenomenon has ravaged the country and destroyed most of what is held as cherished national values.

Corruption as both political and economic issue has transcended into the endemic places in the Nigerian state. Over the years, through the activities of political leaders, the tension of corruption has heightened. Nigeria as an independent state has witnessed both civilian administrations and military regimes. One of the hyped reasons for military intervention in Nigerian politics has been to eradicate or reduce the scourge of corrupt practices but the otherwise has always been the case.

Undeniably, corruption became prevalent in the 1990s during the military regimes of Babangida and Abacha, but a culture of impunity spread throughout the political class when democracy returned to Nigeria in 1999. In fact, corruption took over as the engine of the Nigerian society and replaced the rule of law (Mallam N. Ribadu, interviewed by Reuters, December 17, 2004). Obviously, this was to the disadvantage of the country. The civilian politicians, their allies in public institutions and collaborators in the private sector, particularly the financial institutions were not any better in corruption ratings than former Military President, Ibrahim Babangida, and ex-Head of State, late General Sani Abacha.

Political leadership class has also failed to manage the affair and wealth of the country and had inevitably brought severe misery to many voiceless and helpless Nigerians. It must also be mentioned here that Nigeria's post-independence political bureaucratic and military elites had terribly pillaged the nation's common wealth and national patrimony with impunity, thereby denying Nigerians access to economic prosperity and quality living condition.

It is not that corruption has not been recognized as the "enemy within," It is, however, the political will to begin to tackle this problem in Nigeria that is non-existent, except for the Muhammadu Buhari /Tunde Idiagbon Regime (1984-85) and the government of Olusegun Obasanjo (Tite, 2003, p.12). Past futile intervention against corruption include, the Corrupt Practices Decree of 1975; the public officer (Investigation of Assets) Decree no. 5 of 1976, supplemented by the code of Conduct of Bureau and Code of Conduct charge of "national guidance", the "war against indiscipline" campaign under the Buhari / Idiagbon

junta, which was to some extent only serious intervention; and the National Committee on Corruption and other Economic Crimes under Ibrahim Babangida (1985-93). Since President Babangida regime, successive Nigeria government has established numerous anti-corruption agencies such as Nigeria Public Complaint Commission (1975), the Recovery of public property (specific provisions) Act of 1983, the Code of Conduct Bureau and Tribunal Act 1991, the dishonored cheques (Offences) Act 1997, Corrupt Practices and Related Offences Act 2000. Economic and financial crimes commission (Establishment) Act 2004, the advanced free fraud and other related offences Act 2005 and the money laundering (Prohibition) Act 2011.

It is also pertinent to state that, there are several rules and regulations, including agencies and government organizations that have been established to fight corruption in Nigeria. However, this monster called corruption has continued to be the bane of the country's drive towards the attainment of national development.

This paper therefore traces the trajectory of Anti-Corruption Crusade in Nigeria, examining the challenges and prospects of taming the monster. The paper is divided into five sections. Section one encapsulates the Introduction, section two deals with the methodology, while section three is on the Theoretical framework. Section four reviews available literature on Corruption and Rule of Law in the country. Section five encompasses the conclusion and recommendations of the paper.

Theoretical Framework

It is imperative for this nature of research work to be anchored on a well-grounded theory. This study utilizes both Behavioral Genetics and Poverty theories. The two theories are relevant to discussion of Corruption in Nigeria. Behavioral Genetics theory is derived from a biological theory. Cesarre Lambroso in Elisabetta (2017) asserts that crimes such as Corruption are biologically connected and there are assumptions that once a gene of particular generation is infected with crime there is high chance of repeating itself in subsequent generations. However, facts are abundant in the country to suggest this direction.

Poverty theory on the other hand sees strong relationship between Poverty level and corruption. The assumption of this theory is that corruption is viewed to exacerbating poverty and poverty in turn degenerate corruption. Corruption affects poverty by first impacting economic growth factors, which, in turn, impact poverty levels. This position implies that corruption distorts the economy and the legal and policy frameworks allowing some benefit more than others, there is always unfair distribution of government resources and services. In

Nigeria, this situation has made some class to benefit than others in the sharing of governmental resources. The Police in particular has involved in this act simply because they were under remunerated while members of the Legislative who received bogus packages were also accused of corruption.

Corruption

Corruption is as old as the formation of society by man. Corruption is an aberration and abnormalities inherent in any system. It encompasses embezzlement, bribery and stealing. Egbewole (2016, p.280) asserts that "corruption involves behaving on the part of persons in which they properly enrich themselves or those close to them by misusing power with which they have been entrusted. In short, corruption is the misuse of public power for personal gain." Anti - Corruption and Transparency Monitoring Unit of University of Ilorin defines Corruption as "dishonest activity in which a Director, Staff, Chief Executive, Manager Employees/Contractor of an entity acts contrary to the interest of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for himself or herself or for other person(s) or entity".

George (2005) succinctly capture what is corruption when he observes: Although corruption is a relative concept, being functions of specific normative, social, historical, cultural, economic and political circumstances as well as legal instruments. It is generally understood to entail deliberate mal-practices that violates due process and aimed at personal gain or advantage and selfish enrichment on violation of the law and at the expenses of the common good. The term corruption covers a broad range of wrong doings or corrupt practices that are basically unethical and morally reprehensible, ranging from the giving and taking of bribe to the use of public offices for the advancement of purely private interest and from the misapplication or misappropriation of public funds to outright fraud and embezzlement Yusuf (2016, p.67) opines that "corruption is endemic in these shores. It is the single most debilitating cankerworm that is eating into and destroying the fabric of the nation" It has eaten deep into judicial, police and civil services system of the country. It has also permeated the corporate sector where to a large extent, private sector has become pipeline used to siphon public fund. In the judiciary, both the revered judges and lawyers who supposed to be the vanguard of rule of law and apostles of Anti-corruption crusade have become totally enmeshed in this anti-development practices.

Quite a number of judges have been dismissed by judicial service council on the allegation of corruption, while in the recent times, both Senior Advocates of Nigeria (SAN) and Lords of the highest Court have been put on trial base on the corrupt practices. Speaking in this vein, Hassan (2012, p.111) is of the opinion that Corruption has become a big cancer that threatened to consume the Nigerian

nation. It is so persuasive and endemic that only a few people and institutions can resist its lure. On a daily basis, newsstands are packed full of people discussing reported cases of corruption involving highly placed Nigerians who have allowed their itching fingers to empty the bowl containing commonwealth.

With corruption, there can be no sustainable development, nor political stability. By breeding and feeding on inefficiency, corruption invariably strangles the system of social organization. In fact, corruption is literally the antithesis of development and progress. The Corrupt Practices and other related offences Act, 2000 defines corruption to include bribery, fraud and other related offences like gratification. The Act gave a very wide definition of gratification to mean among other things the offer or promise or receipt or demand of money, donation, gift, loan, fee, reward, valuable security, property or interest in property with the intent to influence such a person in the performance or non-performance of his/her duties. Although the definition of corruption by the Act is vague, it gives a wide-ranging definition of gratification. Abdul Rasheed, (2011, p.117) traces the trajectory of corruption in the country to colonial era "Nigeria since its independence in 1960 has been a country riddled with corruption and gross economic mismanagement". However, despite the establishment of Anti -Graft agencies by successful administration in the country such as War Against Indiscipline and Corruption (WAIC), Code of Conduct Tribunal, (CCT) Independent Corrupt Practices Commission, (ICPC) Economic and Financial Crime Commission (EFCC), Corruption seems to be on high rate and unabated. Usman, (2013) asserts in the same vein: The Acts establishing the Anti-Corruption Agencies (ACAS) had been weak and ineffective. The agencies had been poorly funded and there were evidences of lack of political will by the crusaders to actualize an objective anti-corruption campaign. Rather than abating it, it is festering uncontrollably.

President Buhari also observed that "If Nigeria does not kill corruption, corruption will kill Nigeria" (The Nation 12th August, 2016). This virus is not only endemic but pandemic. It is pervasive, touching and destroying all fabrics of society. Virtually, every aspect of the system has been corrupted by the virus and even the ivory tower is not spared. It undermines people's trust in political and economic systems, institutions and leaders. It can cost people their freedom, health and money and sometimes their lives. Yusuf (2006, p.4) further define corruption "as an act done with intent to give some advantages inconsistent with official duty and the right of others."

Corruption is more dangerous than any existing virus in the world. It kills slowly but extremely dangerous. Corruption is thus, a malignant tumor, a cancer that eats its hosts to death. It's worse than terrorism and those who indulge in the act are more dangerous than the terrorists. As a necessity to fight the menace, the

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chief originator of the two agencies that to some extent cripple the effectiveness of Corruption in the Country, President Obasanjo observes:

Once you give free reign unchecked, unbridled and uncontrolled, the bestiality of man comes to the fore. The average Nigerian is not by nature more corrupt than the European or anyone from any part of the world. He is no less democratic than anyone else. Conventions and practices which effectively discouraging and punish corrupters and corruptness. Effective sanctions, moral, social political and legal are an essential part of antidotes against corruption, human rights and all forms of antidemocratic tendencies

However, there were various degrees of corruption which include Moral Corruption: that entails in sexual pervasiveness, greed especially in interpersonal relationships, loose tongue i.e. uncontrollable tongue such that leaks secrets or slanders or busy-body, indecent dressing or appearance etc. Economic Corruption e.g manufacturing fake drugs adulteration of drinks, piracy i.e. copying another person's intellectual work to illegally enrich oneself (Plagiarism), fraud at all levels etc. Political and Bureaucratic corruption: It is illegal unethical and unauthorized exploitation of one's political or official position for personal gain. It has to do with public affairs – goods, fortunes, agencies and resources. It is therefore corruption against the state or its agencies by a person holding an official position in pursuit of private or personal profit. In practical terms, political and bureaucratic corruption is usually associated with acceptance of bribe, but it is more than that, it involves fraud, nepotism, kickbacks, favoritism and misappropriation by public officials using their official positions for their own advantage (Ogbonnia, 2000).

Rule of Law

It has been agreed by many that the problem of corruption in Nigeria does not lie in paucity of laws on the issue. As a matter of facts, we have about seven anti-corruption laws currently in operation in Nigeria. Public Complaint Commission (1975), the Recovery of public property (specific provisions). Act of 1983, the Code of Conduct Bureau and Tribunal Act 1991, the dishonored cheques (Offences) Act 1997, Corrupt Practice and Related Offences Act 2000. Economic and financial crimes commission (Establishment) Act 2004 the advanced free fraud and other related offences Act 2005 and the money laundering (Prohibition) Act 2011.

These were enough laws on ground to effectively tackle corruption in the country. Though the same elite's class that made these laws; ostensibly perpetuated the crime and they have consciously provided lacunas in the law

provisions to exploit, in case of prosecution. The 2013 country report on Human Rights Practices in Nigeria prepared by the United States Department of State recently made public, noted without equivocation that "although the law provides criminal penalties for corruption by officials, the government did not implement the law effectively and officials frequently engage in corrupt practices with impunity." Since 1983 till date, there was no significant conviction from these anti-graft bodies and the amount of stolen loot recovered were meager compared to the colossal amount of money looted. In the recent time, EFCC declared that it has recovered only N94 billion from over 3 trillion naira looted.

In the same vein, the judicial officials that supposed to be at the fore front of this crusade were also actively involved in the act. Anti-corruption crusade is a war to protect rule of law and more importantly, the protection of fundamental human right of citizens such as right to decent life but on the contrary, both judges and lawyers have been frustrating this crusade. Judges in Nigeria have been dismissed by National Judicial Council, the body in charge of employment, promotion and discipline of Nigeria Judges, on the ground of corruption. Also, Senior Advocates of Nigeria (SANs) have also been accused, charged and prosecuted by anti-graft of agencies for corrupt practices.

Nigeria justice system is fraught with many challenges thus it gives rooms for manipulation by both judicial practitioners and the clients of the system. In Nigeria, a common man has gone to the market to steal a goat and he was sentenced to 2 years imprisonment while a high-ranking public officer who embezzled N23 billion pension fund was given an option of fine of N250,000 naira only. Weak justice system is one of the major causes of corruption in Nigeria. Former Chief Justice of Nigeria (CJN), Hon Justice Dahiru Mustapha declared in a keynote address at the SERAP Roundtable on 19th February 2012 that:

When the rule of law is weak, corruption will remain a nagging problem. Corruption in the justice sector is a keystone to corruption throughout the society. Without an honest criminal justice system, the wealthy, especially the corrupt, can escape the consequences of their crimes. Such impunity reduces the perceived cost of corruption. The risk that corruption activity will result in imprisonment and accompanying public humiliation is minimal. The gains from corruption are therefore not discounted and there is thus little reason beyond personal integrity not to engage in corrupt acts

However, there are many reasons while rule of law or justice system may compliment corrupt practices. Political leadership may encourage corrupt practices and this may weaken justice system and also both the lawmakers and

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judicial officers may become accomplice on the train of corruption and thereby jeopardize all constitutional effort to curb corruption in the society. Indeed, corruption in the judiciary has compromised the rule of law effectiveness in the crusade against the menace in Nigeria. In the recent time both the Judiciary Staff and Judges have been put on trial on corrupt practices and this has adverse effect on the fight against corruption in the country.

Conclusion and Recommendations

Corruption is rampant in Nigeria public life and was more pronounced under military rule through the diversion and mismanagement of public funds. However, it has reached alarmingly pandemic proportions, and should now be a matter of very serious and pressing public concern. Corruption is recognized as a grave national problem. Virtually all sectors of policy and society are affected by it. It hampers or interrupts the delivery of basic services to the people, disrupts education and endangers the safety and security of every single citizen. Corruption is a problem in Nigeria, but not exclusively a Nigerian problem, as the involvement of foreign companies like the IOCs, infrastructure companies like Siemens or Halliburton, and the complicity of numerous foreign banks shows. However, only if decisive steps are taken by institutions of the Nigerian state, that corruption can be effectively battled. For Nigeria to successfully fight corruption, Government must adopt holistic and systemic methods where not only all the institution of the state must be involved but all the arms of Government must work in tandem under the crusade against corruption in the country. A situation where only one arm is pursuing the crusade may not lead to the desire result and genuine collaboration base, mutual trust and respect is a necessity.

Also, Government must institutionalize the crusade in such a manner that the whole society will be involved in the war against corruption – both the traditional rulers and the citizens at all. Corruption cannot be won on one-way traffic but must be all encompassing. Combining the carrot and stick methods is also germane to the success of the crusade. It is only the adoption of this method that the country can successfully master a strong will to combat a deadly virus like corruption.

The paper recommends among others that anti-corruption should be made a strong priority and to reduce political interference in the work of anti-corruption agencies. Nigeria's government need to adopt all- inclusive, carrot and stick approach in combating overgrowing corruption in the country. Government should be ready to restructure the judiciary, police and public services. It should also be ready to re-fertilize such agencies as national Orientation Agency (NOA) to engage the citizens at the nook and crannies of the country and educate the citizenry on the implication of corruption and its effect such as, poverty and

underdevelopment. Anti-graft agencies like ICPC and EFCC should be reinvigorated to enable it to be more proactive in the crusade and also partner with National Orientation Agency in order to educate Nigerians on the evil of corruption. Government can where necessary, drop its carrot approach and adopt stick approach in order to achieve the aim of combating corruption in the country.

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