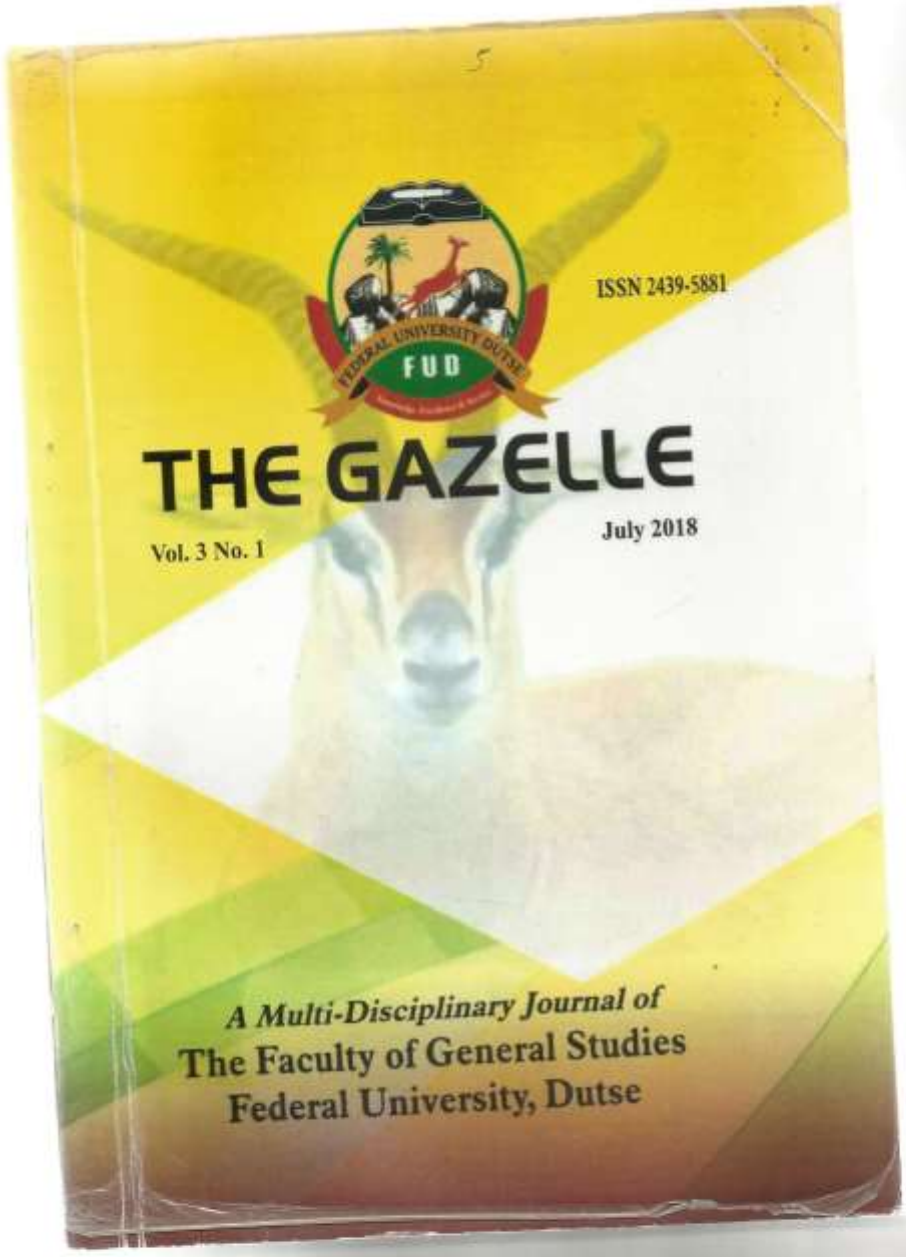

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THE IMPACT OF CORRUPTION ON EXECUTIVE – LEGISLATURE RELATIONS IN NIGERIA'S PRESIDENTIAL DEMOCRACY: A STUDY OF PRESIDENT OBASNJO YEARS

By

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Abstract

Corruption is an enigma that patches on the social, political and economic fabrics of the society. It has so much permeated the arena of governance that one can hardly engage any issue that borders on governance without reference to the menace of corruption. In this context, the institutional contexts of governance are not in any way immune from the impacts and effects of corruption. This paper examines the effect of corruption on institutional relations in government. It argues that, while relationship between governmental institutions, especially the executive and the legislature, is subject to a host of other influences, the factor of corruption remains a potent influence. This consequently diminishes the hope of good governance for the citizens. In this situation where the arena of governance has become a fertile parasitic field for corruption, tackling the menace requires some deliberate attitudinal change from actors as well as increased effort from the civil society.

Key Words: Corruption, Executive, Legislature, Governance, Attitude

Introduction

The subject matter of corruption occupies a central place on discourses of governance in the contemporary world. Kofi Annan has observed that 'at the end of the 20th century, there are in fact few problems more global than corruption' (Anan, 1999). More so, as nations become more conscious of its evil, so also are efforts geared towards its eradication. But this is not to suggest that corruption and the problems it engendered are a recent development. For instance, Edmund Burk was quoted to have said in the century that, corruption influence is the perennial spring of all prodigality and all disorder. It loads us more than a million of debt. It takes away vigour from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution (Robert, 1999).

Similarly, relying on various historical occurrences, Bala Usman noted that the problem of corruption has been of decisive political significance in African

societies long before colonialism (Usman, 2001). With specific reference to Nigeria, the country since its independence in 1960 has not been able to dissociate itself from the canker worm of corruption. In fact, corruption, mismanagement, abuse of office and general lack of accountability has been a recurring theme in the country's government and politics to the extent that the greater the development plans, the greater the extent of corruption through siphoning of developmental funds into private accounts (Ogbonna, 2004). Indeed, contemporary experiences has revealed that one of the major sources of discontent and outrage in Nigeria today is the widespread and growing public corruption in the country. While no one is sure of 'when and where corruption first started in Nigeria' (Gashinbaki, 2004) it is generally acknowledge that it undermines the values of democracy and good governance, jeopardizes social, political and economic development and as such, constitutes a threat to societal existence. On the one hand, the drive to combat corruption has propelled governments, individually and collectively under the aegis of international cooperation, into putting up strategies aimed at combating the scourge of corruption. At the domestic level, these include the establishment of institutions and special agencies to investigate and prosecute corruption cases while at the supranational level, it includes the UN General Assembly's adoption of an international code of conduct for public officers and declaration against corruption and bribery in international commercial transaction; the Global coalition for Africa's 25 principles to combat corruption in African countries that was adopted in Washington D. C. in February 1999. On the other hand, this awareness also informs the series of measures put in place by successive governments in Nigeria to combat it. These includes, Jaji declaration by then head of state, Olusegun Obasanjo in 1977; the ethical revolution programme of 1981under President Shehu Shagari; War Against Indiscipline (WAI) by General Buhari in 1984; National Orientation Movement (NOM) and Mass Mobilization for Social Justice and Economic Recovery (MAMSER) of 1986 and 1987 respectively under President Babangida Administration and; War Against Indiscipline and Corruption (WAIC) of General Sanni Abacha administration (Gashinbaki, 2004; Ogbonna, 2004). Also included is constitutional provision on code of conduct for public officers.

Most recent efforts in this direction have witnessed the establishment of institutions such as the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in 2000 and the Economic and Financial Crimes Commission (EFCC) in 2003.to help tackle the menace of corruption. Given the plethora of mechanisms and institutions that have existed so far in the attempt at evolving a corruption free society, this paper examines, how corruption has continued to impact on governance especially relationship between the executive and the legislature at the Federal level in Nigeria's Fourth Republic. This is more necessary against the background of recent and perhaps continuous discoveries of corrupt practices among some top state functionaries – legislators, governors and members of

national executive council and the sharp divisions that run through citizen's perceptions of such acts. The paper is organized into six parts. The first part is the introduction while the second part is a theoretical discourse on Presidential system and executive – legislature relation. The third part examines pattern of executive – legislature relation. The fourth focuses on corruption as undercurrent for executive – legislature behaviour while the fifth part tries to offer plausible explanation for this trend. The sixth part concludes the work.

Theoretical Discourse: Presidential System and Executive – Legislature Relations

Nigeria's current shot at democracy is fashioned along the presidential variant. This variant which was first attempted between 1979 and 1983 has as its inherent principle, the doctrine of power dispersion among the three arms of government. That is, the theory of Separation of Powers. The thrust of Separation of Powers is predicated on the necessity for entrusting governmental powers in the three branches of government. That is, the legislature, the executive and the judiciary. This is based on the understanding that governmental 'power is of an encroaching nature and that it ought to be effectively restrained from passing the limits assigned to it' (Oellinger and Messe, 2000). Thus, while the legislature is concerned with law making, the executive implements the laws and the judiciary interprets the law or adjudicates in the event of a dispute between different organs of government, citizens or between government and the citizen(s).

Although it is commonly ascribed to Montesquieu, scholars (Egbewole, 2006, Okege, 2002; Mukherjee and Ramaswamy, 1999) have demonstrated in various writings that the theory predates Montesquie as it has been a subject of discourse for writers before him. For instance, the Italian philosopher, Niccolo Machiavelli, had argued for the need to have different body of persons to take over or be in charge of administration and legislation. Similarly, Jean Bodin in his *The Republic* (1576) cautioned that, 'the prince ought not to administer justice, in person, but should leave such matters to independent judges' while John Locke in his Second Treatise cautioned against the dangers inherent in the fusion of both legislative and executive powers of government in the same person or body of persons.

In his *The Spirit of the Laws*, Montesquieu espoused a separation of powers based on tripartite division of power between the legislature, the executive and the judiciary as a means of safeguarding the liberty of the citizens. However, while advocating that powers should be separated as a safe guard against tyranny and arbitrary rule, the framers did not lost sight of the dangers in a watertight compartment of governmental powers hence, the need for power to check power. For instance, central to Mostesquieu's postulations is the idea of checks and balances. That is, a situation whereby one arm is able to check the excesses of other arms of government. This is even more necessary in modern times in which 'complexity of governance' (Dunmoye, Njoku and Alubo 2007) has led to

functional overlap in governmental systems. The executive, for instance, is entrusted with some legislative and adjudicative functions much as the legislature share a great deal of administrative responsibilities. Under this circumstance, inter organ relations could be cooperative, competitive or conflicting.

In the Nigerian case and as with all presidential systems, interaction between the various branches of government is a matter of inevitability. Under this scenario of inevitability of interaction among the various branches entrusted with governmental powers, harmonious relation between them becomes very necessary not only for effective discharge of such powers but also, to achieve efficiency and effectiveness in governance. Ideally, the constitution which specifies the powers of each arm usually incorporates provisions that serve as frameworks for interaction between them. In Nigeria, both the legislative and executive institutions not only emerged from separate elections, they also derive their existence and powers from the constitution.

As contained in the 1999 Nigerian constitution, 'the legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a senate and a House of Representatives'. (FRN 1999, Section 4 (1). Accordingly, therefore, 'the National Assembly shall have power to make laws for the peace, order and good governance of the Federation or any part thereof with respect to any matter included in the exclusive legislative list... ' (FRN 1999, Section 4(2))

With regards to the executive arm, the constitution vested the executive powers of the federation in the President and may be 'exercised by him either directly or through the Vice President and Ministers of the government of the federation or officers in the public service of the federation' (Section 5, sub section 1a).

This separation is further strengthened by the prohibition of an individual from holding positions in any two arms at the same time. But it must be stated that although the constitution has assigned different roles to the different branches of government, there is no absolute separation between them. This is because, as rightly observed by Eze (2006), there are areas 'where the legislature shares in the function of the executive as in the case of approval of the appointments of certain public officers' while the executive also 'partakes in the legislative faculty in giving assent to bills passed by the legislature'. In other words, there exist in the constitution several areas of shared competences between the executive and the legislature.

Dimension of Executive – legislature Relations

At the national level in Nigeria, there is no gain saying the fact that relations between the two arms of government has largely been conflicting since inauguration of the current democratic administration in 1999. This fact of a conflicting relationship is often reflected in public pronouncements by some of the principal actors. (see, Nnamani, 2006; Zailani, 2002; Akinterinwa 2004). This is not to suggest that harmonious relations have not existed between the two but the spate and rate at which they produce gridlocks especially on issues of national importance suggest an acrimonious trend. This is in spite of the fact that the Peoples' Democratic Party (PDP) led executive also controls majority of seats in both houses of the National Assembly (NASS). Worthy of note is that in terms of general bills/ law making, the executive and the legislative have had a harmonious working relationship and this reflects in the fact that between 1999 and January 2006, for instance, out of the 92 bills passed by the NASS, only two[1] were vetoed by the President (see, Nnamani, 2006). Also worthy of note is that there was concurrence from the two arms over the issue of debt relief for Nigeria by its creditors. In fact, the level of concurrence that took place over the issue may be adduced as part of reason for the speedy rate in which it was handled by the Nigerian government. However, the greatest area of conflict between the legislature and the executive in the area of law making relates to appropriation bills. There is no doubt that budgeting issue have remained a volatile one between the legislative and the executive arm at the federal level in Nigeria since 1999. On the one hand, this may be understandable given the centrality of budgeting to public policy making and implementation and the overall efficiency and effectiveness of the government (Eminue, 2006). On the other hand, however, the tendency for budgeting issues to easily assume the dimension of a scourge leaves much to be desired. This has been the case with virtually all appropriation bills in the country since 1999, forcing the president at times to withhold his assent to the bills. Insightful details on the budgetary controversies have been provided by scholars (Eminue, 2006; Aiyede, 2006; Aiyede and Isumonah, 2002; Ehwarime, 2001). What is worthy of note is that the point of discord usually revolves around the right interpretation of constitutional provisions relating to the powers of each arm on budget matters. The usual consequences are delays in passing appropriation bills, horse trading/ media war between the two arms and above all, slow pace of governmental activities. In the past, such acrimonious relationships have led to impeachment threats against the president of the federal Republic (Omotola, 2006; Madunagu, 2003),

Another major area where executive-legislative conflicts have come forcefully to the fore at the national level was in the attempt to review the 1999 constitution. Early in 2006, the President, Olusegun Obasanjo, presented before the NASS, a proposal for the review of the 1999 constitution of the Federal Republic of Nigeria. The proposal was based on the report of the national political reform conference (NPRC) convened by the president in February 2005. It needs to be stated that agitations for a review of the 1999 constitution dated back to the beginning of the

[1] The two bills are, the Niger Delta Development Commission (NDDC) Establishment etc Act, 2000 and the Corrupt Practices and other Related Offences Act, 2003. Both were eventually passed by two-Third majority of the NASS as required by the constitution in the event of a Presidential veto

... military where opinions were stifled, democracy ... for citizens to express their views on issues of ... this scenario, Nigerians were unanimous in calling for a review ... the constitution which at best can be described as a military contraption, non-inclusive and lacking in legitimacy. Central issues that capture the attention of citizens and civil society groups for review include citizenship and residency rights, enhancement of the practice of federalism, equity and justice in governance among others (Ibrahim, 2006). But for the 'somewhat pugnacious posture of that legislative era in its relationship with the executive and the seeming endless crisis that was part of the learning experience of that era' the review could not be embarked upon during the first phase of the democratic administration (Mantu, 2006). Thus, in 2006 during the second phase of the administration, the President submitted a proposal containing about 185 items for review and or inclusion in the constitution to the NASS. However, the attempt resulted into conflagration between the executive and the NASS because of what has been described as the 'controversial signposts' to tenure extension (Anifowose, 2006). This relates to determining the actual intention of Mr President with regards to achieving an elongation of his tenure beyond the constitutional limits of 2 terms of 4 years each through the proposed constitutional amendment. This could not have been surprising given the fact that extension of the term of office for the President and state governors was one of the items on the proposal. It is important to stress that the issue not only generated serious acrimony and conflict between the legislature and the executive leading to media war and pouring of diatribe on each other, it also led to polarisation within the legislative institution much as it generated much polemics among the citizens. For the trends and dimension of the polemics at this period, see, Olurode (2006); Mohammed, (2006); Saliu and Muhammad (2007). Equally, the issue heightened the tension that was already brewing between the President and his vice, Atiku Abubakar. But as the whole episode was driving the country towards an impasse, relief came when the NASS on May 16, 2006 formally discontinued debates on the whole process of constitutional amendment.

Corruption as Undercurrent of Executive – Legislature Relations

The hope of or actual financial benefits serves to explain the pattern of relation between the executive and the legislative arm in Nigeria. It needs to be stated at the outset that corruption in the legislature is much more in the media but corruption within the executive is no less. The insinuation here is that while the executive may be more corrupt than the legislature, the latter is much more easily exposed in the media. There are many sides to this. First, it may serve as impetus for cooperation between the two arms as is realized in the case of Nigeria's debt relief and second, it could result in confrontation. On the former, one would, naturally, assume that the process leading to granting of relief to Nigeria on her external debt in 2006, for instance, was largely informed by consideration of National Interests. However, the success attained can be linked to the hope of personal gain by actors especially the

legislature. This is because to secure debt relief from the Paris Club, there was need for constant travel by legislators (shuttle diplomacy) and this naturally comes with payment of *estacode* allowances to those involved. Such allowances and other expenses are in most cases fixed arbitrarily by the legislative arm itself. The hope of gaining from this therefore made the issue to be attractive for the actors. Moreover, there was no appropriate legislation from the NASS to guide how the proceeds from the debt cancellation would percolate the entire Nigerian society, it thus appears the concern of the legislative arm for debt cancellation was for them to achieve their pecuniary interests.

On the idea of corruption serving as springboard for hostility, there have been insinuations that the executive usually provide financial inducements to some lawmakers to influence the course of debates or when the executive intends to interfere with the workings of the legislature. A first insinuation in this regard dates back to the early years of the democratic practice in 1999 when Alhaji Wada Nas claimed that actions of members of the NASS shows that they have collected money from the executive to influence election of their leaders and to clear ministerial nominees. Consequently, he challenged any member who feels otherwise to 'come out and swear' that they have not collected money or other 'material indescent' to that effect (The Punch newspaper, July 4, 1999 p34). The statement was fervently discussed at plenary of the House of Representatives (HoR) on 6th July 1999 with some members calling for investigation while some others feel the commentator was only exercising his freedom of speech in a democracy. But eventually, the House resolved to refer the matter to its Ethics and Privilege Committee to take action (House of Representatives Hansard, July 6, 1999). The use of financial inducements by the executive have often manifested not only in the cause of passing appropriation bills but also in the process of general law-making including the proposed amendment to the 1999 constitution in 2005. Indeed, there were insinuations that some members of the NASS were given $50,000 each to support the amendment which will serve as harbinger for tenure elongation.

Before this time, there was revelation by a serving senator, Arthur Nzeribe that the Senate was given and actually collected N300 million from the executive in order to back out of the 2002 impeachment threat (Newswatch Magazine, November 4, 2002 pp 50-57). Also, sometime ago, there were allegations from the then minister of FCT, Mallam Nasiru El Rufai, that lawmakers were demanding money from him before his nomination as minister could scale through. In precise terms, hardly had the legislators settled down for business when in August 2003, allegations were levied against the deputy Senate President, Ibrahim Mantu and another principal officer, Dr. Jonathan Zwingina by former Director General of the Bureau of Public Enterprises, Nasir El-Rufai that the two senators demanded 54 million Naira from him to facilitate his clearance in the senate as a ministerial nominee. Sensitive and stunning as this issue was, it was dismissed by other senators for what they

...ntence' (Weekly Trust, April 2005: 50). This generated ... of media war between the two arms. But while it may be difficult to ... veracity of claims and counter claims, the above are nonetheless an indication that financial inducement as directing behaviours of the two arms cannot be ruled out.

Earlier in 2004, a sitting senator, Uche Chukwumerije alleged that his colleague, Senator Arthur Nzeribe, gathered some other colleagues at his official residence on 14 January with an offer of 5 million Naira for each to mobilize and support the declaration of an emergency rule in Plateau State. However, not convinced that the allegation is worth a hearing, other senators waved it off and asked Senator Chukwumerije to apologize to the house (The News Newspaper, April 4, 2005 p 50).

Reinforcing the notion of high level corruption in the legislature is the declaration by Honourable Haruna Yerima at a public gathering that some committees in the house go about collecting bribe from ministries and parastatals to induce members into taking favourable decisions. He alleged further that the Chairman, House committee on communications does facilitate distribution of MTN[2] recharge cards to honourable members. In his words:

> Whoever tells you there is no corruption in the house is in fact corrupt. Ministers and Heads of parastatals are often asked to bring money so that their budgets can be passed. MTN bribes us every month. It brings recharge cards worth 7,500 Naira monthly to each member (The News Newspaper, April 4, 2005 p 52).

Ironically, rather than investigate the substance of the allegation, he was suspended for a month for using what the house termed 'unparliamentary language' and bringing the house into disrepute. This statement roughly coincides with allegations of bribe for budget involving the ministry of education and some lawmakers made by the president in a nationwide broadcast in March, 2005. According to President Obasanjo in a nation-wide broadcast, the scandal involve a total bribe of N55 million which was collected by the Senate President, Adolphus Wabara; Senator John Azuta Mbata, Chairman, Senate Appropriation Committee; Senator Ibrahim Abdulazeez, Chairman Senate Committee on Education; Senator (Dr) Chris Adighije, Senator Badamasi Maccido, Senator Emmanuel Okpede, and a member of the Federal House of Representatives, Honourable (Dr) Shehu Matazu who is Chairman of the House Committee on Education in order to facilitate quick and perhaps, upward review of the ministry of education's budget for 2005 (Obasanjo, 2005).

At another level, having established that monetary inducements often take place from the executive to the legislature, it is natural to reason that such inducements are given to achieve a particular objective. Where the objective is not realized as

[2] The MTN is a licensed mobile telecommunication company in Nigeria

...pected on the part of the giver or is below expectation or not forthcoming on the part of the receiver, there is a high tendency of antagonisms emerging in their relationship. This situation represents the dilemma of the executive arm in Nigeria. This was the point made by Hon. Chijioke Edeoga, a former chairman of House committee on information while alluding to the plot to remove former Spearker, Ghalli Na'aba from office by President Obasanjo. Acording to him, the executive has already spent 300 million Naira and yet, there is no successful motion for impeachment or self probe on the floor. Consequently, the executive is frustrated by repeated failure of its schemes and the capability of its agent in the House to deliver on its plan (cited in Chime, 2011). In this context, the likelihood of confrontation between both arms becomes high.

Understanding the Basis: Why Corruption?

Curiously, one may want to know why the legislature in Nigeria has become so much a haven of corruption. On deeper reflection, one can in fact notice two tendencies. The first has to do with perception of the state as an instrument of accumulation. This in itself derives from contradictions engendered by colonial policies. For instance under colonialism, since the primary objective of the colonial state was to organize the society for capitalist exploitation, through repressive state practices, the state emerged as a law and order state primarily to perform regulatory and extractive roles, a situation that was transfused into the post colonial state manifesting in the increasing centralization of production and distribution of national wealth. Consequently, several political actors are interested in plundering the state to further their private interests. This situation is further compounded by the fact that, most of the political actors were not owners of capital but merely seek political power to accumulate wealth and in turn use this to consolidate their political hold on the masses.

The second has to do with the fact that one cannot divorce this from the pathological conception of politics that permeates the entire Nigeria's political landscape. This implies the tendency for political office holders to conceive of politics in terms of end-means relationship. Thus, politics is seen as a means to achieve some predetermined ends. That is, politics becomes monetized while the average politician sees what he/she has spent in the process as an investment that must be recouped with interest. Consequently, the surest way to recoup the investment is to engage in corruption. This perspective was underscored by former Senate President, Adolphus Waraba, when he pointedly noted that:

> Most of us came into the National Assembly with high expectations. It is an investment really to come to the National Assembly. When we go about campaigning and asking for votes, we don't get these votes free. You spend some money. Most of us even sold houses. You come in through legitimate means but you can't recoup what you spent (quoted in The News Newspaper, April 4, 2005 p 50).

It must also be stated that the political elites are not the only culprits in this pathological conception of politics. Even the masses often see those vying for political posts as money bags that must be reaped before being assisted to get there. In other words, there is a wrong perception of the electoral process as incapable of bringing about possible changes in the way the society is governed. Consequently, many citizens are quick to demand monetary inducements for them to vote for a particular candidate during election.

Conclusion

From the preceding analysis, executive – legislature relation in Nigeria have been conflicting. While this can be explained by a host of factors, corruption and struggle for accumulation among the principal actors (the executive and legislative institutions) serves as a prime motivation for their behaviours. On the one hand, the executive provides inducements to influence legislative outcome while at another level, the legislature wants to be induced before taking a particular course of action. In whichever way it occurs, the legislature serves as the destination of corrupt inducements. This may not be surprising given the fact that virtually all actions of the executive require legislative concurrence or approval. Therefore to have a soft landing for its initiatives, the executive often see it necessary to induce the legislative arm whiles the legislature at the same time, feel safer to monetize its power of approval. Implicit in this notion is that the mere fact of the executive initiating or willing to induce the legislative arm suggests it has some vested interests in the initiative it is pushing for approval. In this case, such vested interests which may be monetary or otherwise are concealed from public glare and are at variance with national interests. The bottom line of argument, therefore, is that both arms employ corrupt acts as instrument of achieving their predetermined objectives.

In view of the dangers which the trend of relation poses to Nigeria's democracy, it is necessary for the appropriate authority to first, strengthen the fight against corruption in all its ramifications. This is necessary against the backdrop of corruption as prime motivator for executive – legislative behaviour as observed in the text. Although institutions such as the EFCC and ICPC have been established to assist in tackling corruption in both private and public realm, there is, however, a declining confidence of citizens in the ability of these institutions to fight corruption in Nigeria. This public skepticism partly derives from frivolities in the process of prosecuting cases of corruption. For instance, the idea of plea bargain which has now become an integral part of corrupt cases is seen as a mockery of the entire exercise and a ploy to make suspects escape the full weight of the law.

There should be more focus on prevention rather than punitive in the fight against corruption. It is axiomatic to think that the focus of the fight against corruption in Nigeria has been on punishing offenders rather than preventing the act. Indeed, for the fight against corruption to make meaning, there is the need for concerted efforts towards prevention. In this case, there is the need for the government to strengthen its due process mechanism and block all leakage pipes that are often explored by corrupt minded individuals. In order words, raising the cost of engaging in corruption is a sure way of reducing the menace in the society. Lastly, deliberate attitudinal re orientation on the part of actors is very necessary if any change is desired. This is because no matter how lofty a programme may be, where there is no political will to make it work, such programme amounts to starting on a wrong footing and will end up in failure.

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