

EFCC AND ICPC THE ANTI CORRUPTION FIGHT

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ABSTRACT

At the down of the 4th Republic in the democratic dispensation that brought Gen. Olusegun Obasanjo to office as the president of Nigeria and commander in-Chief of the Armed forces (on 29th May, 1999). His tenure was inundated with several forms of corrupt practices and misdemeanor at various spheres and sectors of the government. Posed with indignation, and with a motivated vibe to justice, he established EFCC (Economic and Finance Crime Commission) In order to fight corruption at all levels of existence, especially the corruption practices perpetrated at the top spheres of government offices and parastatals. Ever before the establishment of EFCC and ICPC by Obasanjo's regime several attempts have been made to eradicate corruption in Nigeria, ranging from the "War Against Indiscipline and Corruption by Buhari and Idiaagbor regime but their efforts was unable to put corruption to an end".Sequel to this, this work tried to portray in the clearest terms. The activities and operations of EFCC and ICPC as anti-craft agencies. Moreover, it made effort to identify the merits and the demerits of the job done by these two anti-corruption agencies laying a particular emphasis on the demerits and loopholes. Therefore, this work is sought to offer positive solutions to the problems identified in the works of EFCC and ICPC respectively, and also furtherance of efforts already being made in fighting corruption which has proved elusive in our country Nigeria.

Keywords; democratic dispensation, EFCC, ICPC, Corruption, and Indisipline.

INTRODUCTION

The origin of corruption is as old as Nigeria herself. It is more or less a legacy we inherited from the colonial masters. It was one of the reasons adduced for the military take-over of power by major Kaduna Nzeogwu and his colleagues in 1966.

Successive military regimes subdued the rule of law, facilitated the wanton looting of the public treasury, decapitated public institutions and free speech and instituted a secret and opaque culture in the running of government business. Corruption hence, became the dominant guiding principle for running affairs of state. The era evidently witnessed a total reversal and destruction of every good thing in the country. The military regime projected corruption to its highest degree.

Sequel to this, many foreign nations had to terminate their transactions with Nigerian citizens. However, corruption has been tagged the bane of Nigeria development. Lack of basic amenities in Nigeria is never as a result of the inability of the government to put things in place, but corruption continued to weigh down heavily on Nigeria infrastructural development.

1. Spurred for change, the military seized power from democratically elected governments, hence pervasive corruption was cited as the justification. It is clear the military regime were worse than civilian regimes as far as corruption is concern. This explains the reasons for the multiplicity of corruption and the further decimation of available resources and potentials for national development.
2. Since 1966 the military has ruled the country for a period of almost 30 years out of the 43 years of Nigeria's independence, and these are as following 15th Oct. 1979 and 31st Dec. 1983, using corruption,

nepotism, tribalism etc as an alibi. The long period of military rule has impacted corruption on the nature of economic development as well as democratic governance of this country.

3. Obviously corruption gradually became traditional phenomena. It became a household concept in Nigeria, due to its institutionalization. Hence, corruption highly insulated and galvanized in a legal form. As a result corrupt decrees were created to silence radical elites from complaints, which counts "the newspaper prohibition of circulation decree 1967", "the newspaper at a public official reporting ACT "1976", "Public officers protection against false publication Decree No 4 of 1985". Even the treasonable offences Decree No. 35 of 1993. Thence all these and host of other decrees are the ways of suppressing the radical elites such as Wole Soyinka, Saro Wiwa, Dele Giwa and to mention but a few, from reacting and protesting positively against the corruption practices of this era. Every facet and sector in Nigeria is saluted by this cankerworm. A gateman will love to be bribed before a visitor enters the environs; the receptionist will like to receive a piece of currency before one is allowed to see the manager. Even the manager accepts some token before employing a worker or award to the contractor. Personal integrity has been thrown over board for the sake of piece of currencies.

People care less about personal dignity, integrity and prestige. What matters most is the money.

Owing to these corrupt practices, there was a basic dearth in the infrastructure! development which occurred

from the time of the colonial masters to the military regime and even to the dawn of the 4th republic.

Having perceived the corrupt environs that surrounded his presidency, President Olusegun Obasanjo was poised with indignation and with a motivated vibe to justice. To this end, he established EFCC (Economic and Financial Crime Commission) and ICPC (Independent Corrupt Practical commission) In order to fight corruption at all its level of existence, especially the corrupt practices perpetrated at the top spheres of government offices and parastatals. However, when the work of the EFCC and ICPC are surveyed, it will be found that though they made tremendous effort to eradicate the cankerworm of corruption, they failed in certain areas of their responsibilities. On the other hand, they conspicuously turned a blind eye to certain class of corrupt people in the society. And also they generated act of corruption even in the very process of fighting corruption. It is against this background that I am motivated to critically review the anti-corruption war of EFCC and ICPC (from 1999 to 2007)

STATEMENT OF PROBLEM

Evidently, after a critical survey on anti-corruption war since the independence of Nigeria, the anti-graft war that was carried out by EFCC and ICPC stood outstandingly remarkable because of their tremendous effort in creating a classic awareness of the existence of corruption in.

Nigeria and its ostensible way out via probing of the ex-governmental officials which is unheard of in the past, Nevertheless, notwithstanding the numerous achievements records by these agencies, a lot of things were done wrongly while others were blatantly left undone.

Hence, a curious mind may be infuriated to ask, "Is the innovations of EFCC and ICPC solved the problems of corrupt practices in its useful existence in Nigeria"?

However, are EFCC and ICPC ostensible tools for the prosecution and correction of irregularities and gross misconduct in the political facets? Simple put; Are these agencies really independent and free from unnecessary interventions and intrusions?

However, coupled with all these thought provoking interrogations, it projects to the fore the question of "Qui custodit custodes" (i.e. who will guard the guards themselves)?" Hence, are these commissions actually incorrupt in themselves, so as to be imbued with the justification to operate on the terrains of corruption? To what end, do EFCC and ICPC account and publish the retrieved items from corrupt officials. Who takes account of them and for what purposes are they channeled for? Basically, a big loophole is finally established at the end of Obasanjo's tenure. Neither interrogations nor probing was done let alone finding him corruption free. Yet we are well informed about some scandals during his regime and even the third term saga. All were lost in the thin air. To this point, can EFCC and ICPC be said to be a useful tool and ostensible agencies for anti-graft war?

PURPOSE OF STUDY

This work is obviously, all embracing. It is both for academic purposes and for practical purpose. However, in its academic venture, it thrives authentically as a reference and resource companion to students of political science, sociologists, philosophers and other related disciplines. More so, to its practical purpose, the ideas expounded in this work will contribute practically and meaningfully towards the quest for good governance and healthy democracy in Nigeria.

LITERATURE REVEIW

Nigerians agree that corruption in public life, which was pronounced under military rule, has alarmingly reached its pandemic proportions and should now be a better of very serious and pressing public policy concern.

Unfortunately, the often - grouted statement by the Oputa panel is still relevant today, many years after the drafting of the report. 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.

Obviously, part of the political objectives mapped out in the constitution of Nigeria of 1999 and previous constitution : Section 15 X5) is that, "the state shall abolish all corrupt practices and abuses of power". What often is the case is that those who should be guardians of the constitution are their worst enemies. Corruption permeates all facets of governmental institutions and structures in Nigeria law enforcement agents are often the most corrupt of Nigerians, the higher the officer is in rank, the better opportunity he/she appropriates to be corrupt. Corruption in the various arms of government appears in various shapes. In the executive branch, corruption takes the form of over invoicing, conversion of public funds and properties to private use, inflation of contract, cost, kick back paid to monitoring officers on contract awarded, distribution or sharing of public resources as patronage to certain individuals to secure political support. In that case one may rightly ask who will watch the watch-man. So many statutes have been put in place to combat crimes in Nigeria, which would have made the country a paradise on earth but where the people to enforce them are epitome of corruption in their ranks, so to cure it would only need a miraculous divine intervention.

However, this ostensible fight against corruption is not more or less a new phenomenon. It is as old as Nigeria herself. "Corruption is a problem in Nigeria but not exclusively a Nigerian problem, as the involvement of foreign companies such as IOCS, Infrastructural Companies, like Siemens, Halliburton, and the complicity of numerous foreign banks shows (Enweremadu;2010). However, before the establishment of EFCC and ICPC in the fourth republic, various epochs in history of Nigeria have established agencies that were used in combating and eradicating corruption in Nigeria. Hence, only if decisive steps are taken by these institutions of the Nigeria state, corruption can be effectively battled.

ANALYSIS OF THE REPUBLIC

	DATES	HEADS OF STATE	TYPE OF ADMINISTRATION
1	1960-1966	Alhaji Abubakar Tafawa Balewa	Civilian - first Republic
2	Jan July 1966	Maj. Gen. Aguiyi Ironsi	Military
3	1966 - 1975	Gen. Yakubu Gowon	Military
4	1975 - 1976	Maj.Gen.Murtala Muhammad	Military
5	1976 - 1979	Gen. Olusegun Obasanjo	Military
6	1979 - 1983	Alhaji Shehu Shagari Gen	Civilian - first Republic
7	1983 - 1985	Gen. Muhammad	Military

		Buhari	
8	1985 - 1993	Gen. Ibrahim Badamosi Babangida	Military
9	Aug- Nov. 1993	Chief Ernest Shonekan	Civilian -third Republic
10	1993 - 1998	Gen. Sani Abacha	Military
11	1998 - 1999	Gen. Abdusalam Abubakar	Military
12	1999 - 2007	Chief Olusegun Obasanjo	Civilian - fourth Republic

Nigerian's leaders and governments since independence.

THE FIRST REPUBLIC: 1960-1979

Obviously, since Nigerian's independence, many anti-corruption bills and bodies have proliferated, but corruption in Nigeria rather than abating, increases in geometrical progression

However, within this period of 1960 - 1975 that made up the first republic, there were some anti-corruption war agencies used by different civilian government and military rulers alike.

Since, independence, Nigeria has alternated between democratic civilian governments and military rule brought about by coups. After every coup in Nigeria, the military has repudiated the veracity of the government it displaced and has announced to cheering citizens plans to curb corruption and revamp the economy.

The first military regime in Nigeria promulgated the public officers (Investigation of Assets) Decree No 5 of 1966 which empowered the head of state to require public officers to declare their assets. In additions to the above decree, tribunals were set up with the power to investigate whether any public official corruptly enriched himself corruption while in office.

Hence, in 1975 General Murtala Mohammed made several efforts to combat: corruption. His regime set up an assets investigation panel to examine the assets of state governors, federal commissioners and high ranking officials. Those who were found guilty of corruption was dismissed and their assets confiscated by the government. His regime also enacted the corrupt practices decree of 1975, which extended the scope of his regimes anti-corruption measures to officers of public bodies as well as government employees. The regime also established a bureau to try offences under this decree.

However, below is the list of anti-graft agencies in the first republic.

1. Criminal justice (miscellaneous provisions Act) CHP.88 1966
2. Public Officers (Investigation of Assets) Act 1966
3. Extradition Act, 1966
4. Extradition Act, No. 7 of 1967
5. Corrupt practices Act, 1975

SECOND REPUBLIC: 1979 - 1993

This period commenced with the emergence of, Alhaji Shehu Shagari. "Thus, the Shehu Shagari regime come to power and stayed for five years from 1979 - 1984". Hence, "His government was accused of high degree of corruption and was overthrown by Gen. Mohammed Buhari and Tunde Idiagbon government". In 1984, the General Mohammed Buhari's regime brought in the "special military tribunals decree" to deal with corruption in government. It was delivered that draconian anti-corruption measures, including among prison sentences and forfeitures of assets would assure the public the regimes seriousness in fighting corruption. It differed from the trial code in that trials were conducted by a tribunal, chaired by high ranking military officers and with serving or retired judges of the high court as members. Under this arrangement, appeals could be made to the highest military body, the Supreme military council (SMC).

The tribunals convicted a member of high ranking public officials including some second republic State governors, ministers, presidential advisers and state commissioners. He sanitized the general conduct of the country by reforming the local government authority. His polices were really at salvaging the common man and that country should had been in bondage as a result of corruption. War Against indiscipline (WAI) was a very important policy identified with General

Buhari's regime. Law and order were observed to the later by the citizens of the country because of the punishments that awaited the offenders.

In August 1985, another coup brought General Babangida to power. His regime released some of the public officials awaiting trials for corruption and he also set up a panel to review the cases of those convicted under the Buhari's administration. Notwithstanding, the fact that Babangida's administration is synonymous with corruption, he also wanted to be seen as addressing the problem of corruption itself. In his superficial war against it, he introduced the "Audit Alarm System" (AAS) at the local government Level. The AAS was to serve as internal check on the finances of the various Local government councils.

However most of the corruption was at the federal and state level.

Hence here are some agencies established to fight corruption.

1. Criminal code ACT, CHP.77 LFN 1990.
2. Criminal procedure ACT. CAP. 80 LFN 1990.
3. Panel code CAP .89 LFN 1990
4. Northern States federals provisions ACT CAP 345 LFN 1990.
5. Criminal Procedure code CAP .30 LFN 1990
6. National Drug Law Enforcement Agency ACTS CAP 253 LFN 1990.
7. Robbery and fire arms Special provision) ACT CAP 398 LFN 1990
8. Code of conduct Bureau and Tribunal ACT CAP 56 LFN 1990
9. Companies and Allied Matters ACT CAP 59 LFN 1990
10. Finance (control and rearrangement) ACT 1990. (Ezeanya, 2009)

THE THIRD REPUBLIC: 1993-1997

Emphatically, by 1993, it had become clear to the general public that Babangida's loyalist was being enriched at their peril and consequently, the government had ceased to enjoy the stamp of public validation. If there was any support left for Babangida at this period; It was because of his promise to hand over power to a democratically elected government In 1993, and when his government annulled the June 12 presidential election, his government contracted and collapsed.

The Abacha's regime was the most illegitimate, reckless and ruinous regime Nigeria ever had in its political history. Though he vowed to fight corruption by constituting failed Bank Tribunal and Inaugurating war against indiscipline and corruption (WAIC).

However, at the demise of Abacha, Gen. Abdusalam Abubakar took over and tried to exposed the late General 24 corrupt deeds hurriedly organized a transition programmed and handed over the mantle to leadership of the country to a former General and one time military head of state between 1976 -1979.

Furthermore, "several other agencies are commissioned in order to enforce laws in Nigeria among which are the federal Road safety corps, Economic and financial crimes commission (EFCC), Independent corruption practices commission (ICPC), office of public prosecution (OPP), state security service (SSS) and National Drug Law Enforcement Agency (NDLEA) to mention but a few" (Ezeanya. 2009).

But notwithstanding, all these anti-graft agencies, can corruption be said to be totally eradicated in Nigeria? Hence, this is a food for thought that will occupy the major area of chapter three and the major operations of EFCC and ICPC as an anti-corruption commission.

Anti-Corruption War Under Obasanjo

The major accolade registered on account of the establishment of this anti-graft agencies (EFCC and ICPC) by Obasanjo were the fact that they created the awareness of corruption in Nigeria. Hence, this creative and unique fact of awareness prefigured the sense of urgency for the eradication of corruption in Nigeria.

However, Obasanjo took some laudable decisive steps to make good his threat of "no business as usual". To this end, he tried tenaciously to tie loose ends by

1. Commending the process of recovery of looted funds from foreign banks.
2. He set up ad-hoc panels of inquiry to investigate and report any allegations of corruption practices especially failed contracts.
3. Obasanjo caused the ICPC and subsequently the EFCC to be established for investigation and prosecution of persons implicated in corruption practices and economics crimes.
4. He infected reform of the public sector through privatization and commercialization of government business ventures: monetization of benefits of public servants, guaranteeing pensions and retirement benefits.
5. Signed international anti-corruption instruments such as the UN Conventions, the AU convention, the ECOWAS protocol, and
6. Ceased every opportunity to reaffirm zero tolerance for corruption and the need for ethical and values re-orientation.

Furthermore, "the first anti-corruption agency to be set up by the Obasanjo administration, was the ICPC which focused on the public sector. Upon its establishment in 2000, "the commission earnestly began to exercise its power and discharge its functions but 2003 it was prosecuting barely 49 public servants" (Onuoha; 2003), which was considered as a drop of water in an ocean of official corruption and a burgeoning regime of "kleptocracy". However, in the affirmation of 9/11 and the global war against terror the EFCC as set up to combat the threats posed by money launderers and other organized trans-border criminals operating in Nigeria.

However, as ICPC based on public sector crimes, EFCC mandate embraces both the public and private sector. Thus, the unbiased comparison of the achievements of EFCC and the ICPC in the areas of persecution and recovery of proceeds of corruption has to take into account the difference in their mandates and their operational jurisdictions.

A Critical Appraisal

A closely glance at the operations of these anti-graft Agencies will actually affirm that, these agencies are both saints and sinners. Its existence is ambidextrous in nature. At one time, they serve as the well expected messiah the people or rather the poor masses have been looking up to "or their pound of Justice. At the other end, they serve and project their tentacles towards the protection of the corruption politicians, hence leaving the poor masses to suffer without any means of consolation. Sequel to this, this phase tends to expose the merits of the EFCC and ICPC as well as their demerits during the anti-corruption war in Obasanjo's regime.

The Merits of EFCC and ICPC

Obviously, Nigeria's most powerful anti-corruption agency increased emphasis on respect for fundamental human rights of accused persons and greater respect for rule of law and due processes.

However, "the elevation of corruption to an urgent national issue by Obasanjo was itself motivated by a combination of some domestic and global developments. At domestic level, Obasanjo's anti-corruption drive was propelled by an unprecedented disclosure of evidence of corruption perpetrated by his immediate predecessors, especially the late Gen. Sani Abacha, who ruled Nigeria from 1993-1998" (Enweremadu; 2010). These investigations uncovered large evidences showing that Abacha and his collaborators had diverted billions of dollars in public funds into several local and foreign bank accounts, while also corruptly acquiring choice properties in many locations within and outside the country.

At the global level, the war against corruption was motivated by a genuine desire to correct Nigerian's frequent appearance at the top of the table of the world's most corrupt nations. Between 1999 and 2003, Nigeria occupied either the 1st and 2nd position in transparency international's survey of the most corrupt countries of

the world. This became not only a source of personal embarrassment to Nigeria officials traveling overseas especially President Olusegun Obasanjo who was himself one of the founding members of transparency international. More so, accolades are ostensibly given to this anti-graft agencies especially for the measures they implemented in order to advance the anti-corruption crusade such as: - signing and adoption of several anti-corruption laws and international treaties, sacking of some prominent officials accused of corruption, establishments of ad-hoc commissions of inquiry to probe specific allegations of corruption, regular public statements or speeches denouncing corruption and calling for an ethical re-orientation.

Although Nigeria had never convicted anybody for corruption in a regular court, the middling powers given to these agencies raised considerable hope that corrupt officials that messed up were brought to book. The unprecedented achievements of the EFCC brought the organization and its leadership a lot of public support but at the same time caused considerable disharmony among members of the political elite, notably federal legislatures and state governors who had supported its creation. They initially saw it as a weapon against fraudsters in the banking industry or individuals specializing in advanced fee fraud, commonly known as 419 in Nigeria contrary to the expectation of the political class, the EFCC under a young dynamic leadership (Nuhu Ribadu), made the political leaders, which it correctly identified as the major drivers of corruption, its first and principal target.

The activities of EFCC still led to positive changes in international perception of Nigeria. This is indicated in the annual transparency international corruption perception index after 2004, Paris club debt forgiveness massive foreign financial grants and flattering commendations.

Thus, this is Nigeria's improving position in TI's corruption perception index.

<i>Year</i>	Score	Position
2008	2.7	121/180
2007	2.2	147/10
2006	2.2	142/179
2005	1.9	152/158
2004	1.6	144/145
2003	1.4	132/133
2002	1.6	101/102
2001	1.0	90/91

2000	1.2	90/90
1999	1.6	98/99
1998	1.9	81/85
1997	1.7	52/52
1996	0.6	54/54

(Source: Transparency International, corruption perception Index: 1996 - 2008, Enweremadu; 2010.

In October, 2005, EFCC scored its first break when Tafawa Balogun, Former Inspector. General of police was sentenced to a six month Jail term for corruption. Hence, former senate President, Adolphus Wabara, former minister of Education, Professor Fabian Osuji and Housing minister, Mobolaji Osomo were all indicated for corruption. (Amaraegbu; 2011)

Thus, the impeachments and EFCC indictments in 2005 irrespective of all the financial atrocities associated with Obasanjo's regime, his tenure and his administration was not questioned or probed let alone finding it wanting. However, "Obasanjo himself is seen as a corrupt leader with oil revenues missing from the federation account and paying out over 50 billion naira on power sector to nonexistent companies. He was well known for supporting and facilitating many illegal executive actions and ignoring judgments against his government including judgments delivered by the supreme courts. Examples included the illegal withholding of funds due to Lagos state local governments for more than two years after the Supreme Court ordered its immediate release"(Ilgwueye; 2009). He also supported the illegal impeachment of several governments. The sordid Anambra state affair and the presidential infamy in Oyo state, Plateau and Ekiti are examples. He protected his corrupt allies in governances from being prosecuted and quarreled, and implicated public officials, national assembly speaker and senate president who refused to agree with him on certain issues. EFCC which was established by him became an organ for fighting his enemies. His vice President Atiku suffered much humiliation from Olushegun Obasanjo.

However, the shoddy manner of handling certain cases which include the following:

- Julius Makonjoula's case was terminated by the Attorney General of the Federation.
- Many of the culprits were merely relieved of their posts without interdiction; some were 'even given higher political posts, eg Imoke and the killer of Bola Ige
- Some indicated persons were dismissed and set free and their cases terminated, eg, Tafawa Balogun, Osomo, Olabode etc.

The Economic and Financial crime commission (EFCC) indicated most governors who served under Obasanjo's administration up till date, the Yar'Adua's and eventually Goodluck Jonathan's administrations have neither probed nor prosecuted any of these Governors"(Ojiakor,2009). This shows that EFCC is one sided in its dealings, because if it is only effective during Obasanjo's regimes and ineffective at others regimes that shows that Obasanjo used it for his political gains and ambitions.

REPORT CARD OF ICPC and EFCC as AT THE END OF 2006/2007

	Agency	EFCC	ICPC
1	Number of Persons Arraigned	300 (2006)	185 (2006)
2	Number of Persons Convicted	145(2007)	20 (2007)
3	Value of funds/assets Recovered	N725 Billion (June 2006)	N3.9 Billion (2006)

(Enweremadu; 2010)

CONCLUSION

This research work is not an ends in itself but it is means to spur people for a greater investigation, further research, and development on the better ways to enhance the productivity of EFCC and ICPC towards a perfect eradication of corruption in Nigeria.

RECOMMENDATION

In the hopes of furthering the efforts being made to fight corruption to an end in Nigeria, the researcher wishes to pinpoint and to suggest the Way forward, and these are as follow:

That EFCC and ICPC should be more independent. It has often been the case that the president single handedly appoints those who chairs or pilots the commission. Hence, this type of monopoly tends to be detrimental to the general objectives of commission at large because, there seems to be a tendency where the association reduces to the dictates of the President in order to satisfy him. To this end, the choice of selecting the chairman should not be solely assigned to the discretion of the President.

Efficiency is the hallmark of Excellency. Nevertheless, effectiveness, expertise is required from the workers of EFCC and ICPC.

Sequel to this, in order to bring up professionalism in the way EFCC and ICPC carry out their duty; there is an urgent need for a proper and constructive orientation. However, this orientation can come in the form of education. By creating an opportunity for proper studies, on the arts of detecting and investigation, just as the American FBI.

One of the viable ways to correct the anomaly is to re-examine the Acts and Rules of these agencies. It has been the case that there are a lot of powers rested on the shoulders of these agencies and as such there are abuses as regards to detaining a suspect without trial.

Furthermore, stability is highly required, Instability as regards to the frequent changing of chairman causes tremendous harm to the organization of the system. Thus within the space of eight years, four chairmen have been removed and new one installed, This ugly phenomenon of instability cuts across all the facets of the agency's mode of operation.

Inter alia, the choice of selection of a chairman matters. To this view, the case of "Who will guard, the guards themselves" resurfaces. How do these agencies appoint their chairmen? Is there a special qualification for any person that ought to be their chairman? However, this is a very important aspect because, if you appoint the chairman anyhow, he or she will do the work anyhow. If discipline and perfect moral conduct are considered during this selection or appointment, there is no way this fight against corruption will not be irradiated if not finally eliminated.

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