

Combating Corruption in Nigeria: The Nigerian Economic and Financial Crimes (EFCC)

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Abstract: Corruption is a persistent cancerous phenomenon which bedevils Nigeria. Misappropriation, bribery, embezzlement, nepotism, and money laundering by public officials have permeated the fabric of the society. The office seekers of major political parties top the list of unfit or corrupt officials. Elected officials in high echelons of power and public officers use their positions to engage in corrupt activities. It is estimated that corruption accounts for 20 percent of the GDP of Nigeria. For several years, Nigeria has been at the bottom of Transparency International's (TI) Corrupt Perception Index (CPI) ranking. In 2002, the Nigerian government created the Economic and Financial Crimes Commission (EFCC) to investigate and prosecute cases of corruption and financial crimes. This paper reviews the scope of corruption and the efforts by the Nigerian government to combat it by examining the various perspectives for understanding the causes of corruption. The study while recognizing the importance of the various perspectives, notes that both the rent-seeking and institutional theories offer deeper insights into the systemic nature of Nigerian corruption. Finally, the article examines the activities of the EFCC and notes that it faces serious challenges as the configurations of the Nigerian political landscape are uncertain.

Introduction

Corruption is a persistent cancerous phenomenon which bedevils Nigeria. It has been acknowledged in many quarters that corruption is Nigeria's worst problem and is largely responsible for its woes, such as the instability in the Niger Delta, the debt overhang, barriers to democratic elections, and impediment to flow of foreign direct investment (FDI).¹ Nigeria is not significantly dissimilar to many developing countries: corruption has been a multifaceted phenomenon characterizing the global economy. Although most studies of corruption focus on developing countries, there are few studies on corruptive practices, the role of the anti-corruption agency, and the debilitating impact of corruption on Nigeria.²

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<http://www.africa.ufl.edu/asq/v12/v12i1a2.pdf>

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ISSN: 2152-2448

There are a number of reasons for focusing on the scope and impact of corruption in Nigeria and the difficulties in dealing with it. Nigeria occupies a central place in Africa as the most populous country, with an estimated population of over 149 million. It is one of the continent's richest countries and is blessed with a huge diversity of natural and human resources. It is also characterized by a multiplicity of different ethnic groups. Like many mono-cultural economies in Africa, its economy is heavily dependent on crude oil. Paradoxically, it is this important natural resource that sustains corruption in Nigeria. As in many African states, corruption is a malaise that infects the society. Corruption drains from African countries over \$140 billion per year.³ Corruption deters investment because it is a disincentive to potential investors; it distorts public expenditure, increases the overheads for running businesses, and diverts resources from poor to rich countries. According to Transparency International (TI), corruption accounts for about 20 percent of its Gross Domestic Product (GDP).⁴ Nigeria is also identified as among the top nations in the over \$1 trillion annually paid globally in bribes.⁵ Corruption was partly responsible for the collapse of the first (1960–66) and second (1979–83) republics. These interesting facts make the choice and significance of Nigeria apt, especially as it is one of the few countries in Africa that has taken a bold step to set up an anticorruption agency to investigate and prosecute perpetrators of corruption activities.

Corruption in the form of misappropriation, bribery, embezzlement, nepotism, and money laundering permeate Nigerian society. Over the years, various administrations have articulated policies and measures designed to combat corruption. Examples include General Murtala Muhammed's (1975–76) crusade to confiscate assets illegally acquired by Nigerians; Shehu Shagari's (October 1979–December 1983) ethical revolution to combat corruption through the introduction of code of conduct for public servants; General Muhammadu Buhari's (December 1983–August 1985) war against indiscipline; and General Ibrahim Babaginda's (August 1985–August 1993) ethical and social mobilization crusade. These efforts have been largely cosmetic attempts to address a systemic problem that is deeply rooted in the country's fabric. In addition to these ethical schemes, there have been a number of legislative acts and functional mechanisms to combat corruption. Prominent among them include the Banks and Other Financial Institutions Act (1991), the Financial Malpractices in Banks Act (1994), the Advance Fee Fraud and Other Related Offences Act (1995), the Nigerian Corrupt Practices and Other Related Offences Act (2000), and so forth. In its effort to fight corruption and create credibility to attract international investments, the Obasanjo administration (May 1999–May 2007) among other things, established the Economic and Financial Crimes Commission (EFCC) in 2002. The EFCC is charged with wide ranging responsibilities within the context of preventing, detecting, investigating, and prosecuting cases of economic and financial crimes in Nigeria.

The central argument here is that in spite of the creation of the EFCC, major political parties' office seekers, elected officials, and public officers use their positions of authority and access to power to engage in corrupt activities. To this end, the paper examines the salience of Nigeria, the scope and severity of corruption in

Nigeria, and the government's attempt to combat corruption through the creation of the EFCC. The article argues that although corruption appears in many forms in Nigeria, both the institutional and rent-seeking theories offer better understanding of the underlying causes of corruption. Finally, there is a discussion of the structure, role, and activities of the EFCC and its continued relevance in Nigeria's political landscape.

The Causes of Corruption in Nigeria

Corruption has been defined differently by various scholars and organizations. One widely cited definition is that proffered by Nye: "corruption is a behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status-gain; or violates rules against the exercise of certain types of private-regarding behavior."⁶ According to the World Bank, corruption is the abuse of public office for private gains. It estimates the cost at about \$80 billion worldwide. This includes public officials accepting, soliciting, or extorting bribes, and private actors offering bribes to subvert or circumvent public policies for competitive advantage and profit.⁷ Similarly, the United Nations Development Program (UNDP) defined corruption as the "misuse of public power, office or authority for private benefit – through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement."⁸ TI defines corruption as an inappropriate or illegal behavior of the public sector official (politician or public officer) by misusing the entrusted power for private gain of the person or related people.⁹

There is a substantial body of literature on corruption.¹⁰ There is also a corpus of country-based and sector-based studies on corruption in developing countries that show not only the ramifications but the lively market that corruption creates, especially in parts of the bureaucracy that can generate huge bribes.¹¹ The literature generally suggests five strands of hypotheses as explanations for the causes of corruption: rent-seeking, cultural relativity, low salary, imitation, and institutional/political centralization.

Some scholars have argued that corruption could make positive contributions to the economic and political development of an economy. For examples, Myrdal and Leff point out the significance of corruption as a deliberate tool of administrative delay that attracts more bribes and acts as a lubricant to an otherwise sluggish economy.¹² For both Merton and Abueva, corruption in the form of nepotism, spoils, and graft perform a requisite function to aspects of political development such as unification and stability, popular participation in public affairs, development of viable political parties, and bureaucratic responsibility.¹³ Abueva further noted that in capital hungry economies of developing countries, large-scale graft that funnels capital to struggling entrepreneurs aids them in creating industries.¹⁴ On the contrary, others, including various studies by the World Bank and UNDP, show negative impacts of corruption on investment, growth of the economy, and the political process.¹⁵

The other strand of literature on corruption deals with the various attempts through legislation and the establishment of functional mechanisms to deal with corruption and other financial crimes.¹⁶ The study by Chukwuemerie and Malgwi, which focused on corruption and the measures introduced by various Nigerian governments to combat it, is very instructive. While recognizing the contributions of these studies in understanding corruption in Nigeria, their work complements and expands the scope of existing studies by assessing the role of EFCC in fighting corruption.

According to the World Bank, corruption occurs when “the actions of individual(s), groups, or firms in both the public and private sectors influence the formation of laws, regulation, decrees, and other government policies to their own advantage by means of illicit and non-transparent provision of private benefits to public officials.”¹⁷ It could also occur when changing and altering the implementation of existing laws, rules, and regulations to provide advantages to either state or non-state actors as a result of illicit and non-transparent provision of private gain to public officials. While there are a number of explanations on the causes of corruption, the following explanations would suffice: cultural relativity, low salary syndrome, imitation, institutional, and rent-seeking.¹⁸

According to the cultural relativity argument, the covetousness of corruption in developing countries occurs when gift giving becomes a bribe resulting from new consciousness developed among students, military officials, and others created by rapid industrialization whereby they are exposed to the modern world. The cultural relativity school contends that confusion between bribes and gifts, the process of modernization, the burden of the extended family system, and the lack or absence of public domain are responsible for corruption in developing countries.¹⁹ As de Dardan pointed out, the absence of public property in traditional African societies is responsible for the inability of African leaders to distinguish their public functions and property from their private ones.²⁰ Although this may account for some corruption in Africa, the notion that traditional African societies lacked public domain is a *non sequitur* because there are traditional structures in African societies, such as village farmland, lineage farmland, village squares, village huts, and communal roads that are communally owned and maintained. Secondly, as Kallon noted, even if the public domain argument was credible, it is still misleading, for those involved in corruption are well-educated people, many of whom were trained in the western tradition, which supposedly has long tradition of public domain.²¹

Corruption in Nigeria and other developing countries has also been explained in terms of low-salary and strong kinship ties. This perspective opines that public officials in developing countries are corrupt because their salaries are so low that they cannot make ends meet by depending solely on their meager salaries. Furthermore, strong kinship ties characteristic of these societies place nepotistic pressure on public officials. Accordingly, they resort to corrupt activities to make ends meet and help the relatives.²² Although this might be plausible for the medium and low levels public officials, it does not explain why highly paid public partake in corrupt activities. Although low salaries may not be a justification for graft, this

perspective offers insight into the wide spread corruption, cronyism, and nepotistic activities in Nigeria.

Another explanation is derived from the theory of imitation arising from the proclivity of human being to copy or imitate the lifestyles of other individuals believed to have accomplished important things in the society. Using Maslow's concepts of hierarchy of needs and Bandura's observational learning theory, Gire suggested that corruption is prevalent and reproduced in Nigeria because of the imitation of the lifestyle and behavior of other members of the Nigerian society who are, or have been, in positions of authority.²³

Furthermore, the UNDP's institutional theory offers an interesting perspective on corruption. According to this perspective, corruption arises when public officials have wide ranging authority, little accountability, and perverse incentives, or when their accountability responds to informal rather than formal forms or regulation. For institutional theorists, the causes of corruption result from a failure of state institutions and a lack of the capacity to manage society by means of a framework of social, judicial, political, and economic checks and balances, or where there is monopoly control of public officials wielding discretionary powers in the absence of accountability systems.²⁴ The institutional explanation is pertinent to understanding the breadth and depth of corruption among governors and chairpersons of states and local government areas (LGAs) in Nigeria since 2000. Institutional theory can be explained in terms of political centralization in which the governors and chairpersons claim that the 1999 Nigerian constitution bestowed immunity from prosecution while in office. This has resulted in an abuse of power, extravagance, and a gross abuse of the budgeting process. For example, the governor of Rivers State in 2006 budgeted \$33.2 million for unspecified "grants, contributions and donations"; \$77 million for unspecified "special projects"; \$65,000 per day for transport and travel for his office; and \$11.5 million for purchasing new government vehicles.²⁵ The situation in Rivers State is similar to that in other states.

Finally, rent-seeking has been used to explain the incidence of corruption in Nigeria. According to this perspective, corruption results from too much government intervention in the economy, which creates rent-seeking opportunities. Rent-seeking is a redistributive activity that takes up resources. Corruption therefore results from rent-seeking when someone has a monopoly over goods or services and has discretion to decide who receives, when it is received, and how much is received.²⁶ Rent-seeking through corruption by public officials can hurt innovative activities, and since innovation drives economic growth, public rent-seeking can distort and hamper growth even more severely than production.²⁷ Public rent-seeking includes, but is not limited to, the following: taking bribes for issuance of business licenses or permits; taxes on documents; taking bribes to obtain import licenses; and taking bribes to influence bids for privatization of state owned enterprises (SOEs) or for government contracts. Shleifer and Vishny noted that these forms of rent-seeking are more likely to hurt innovation because innovators need these government-produced services and goods. These services are inelastic to business. They therefore become primary targets of corruption. If, therefore, innovators do not have money to pay

bribes to get licenses and permits, for example, they would not be able to enter the market and innovate.²⁸ The rent-seeking theory, for the most part, appears to explain the incidence of corruption amongst public officials in strategic positions in Nigeria. The following are some of the underlying causes of corruption in Nigeria that may emanate from rent seeking activities:

1. *The lack of transparent financial institutions in an economy can make a larger part of the population dependent on corruption.* In the 1980s, the discredited Bank of Credit and Commerce International (BCCI) aided Nigerian officials to launder money derived from corrupt activities in overseas banks.²⁹ In recent times, Nigeria has seen a spike in bank failures and takeovers due to corruption and money laundering.
2. *Where the government is involved in buying and selling of goods and services and distribution of subsidies.* Under such situation a private firm may want to bribe a government official if the department is involved in awarding contracts so that the official may structure the bidding specification in order that the firm is the only qualified supplier, or is selected as the winning contractor. For example, the British Serious Fraud Office investigated an allegation that a British-based company in Nigeria set up a slush fund of \$170 million to bribe Nigerian officials to win building contracts.³⁰ The danger is that once selected, the firm may charge inflated prices or skimp on quality because it had already bribed government officials. Various administrations over the years introduced rent-seeking activities. For example, General Ibrahim Babaginda's programs in the 1980s and 1990s, such as the construction of the new capital territory in Abuja, the revitalization of the troubled steel and aluminum industries, and the Liberian mission created rent seeking opportunities.³¹ Bribes for government contracts are paid upfront, and once paid, contractors can pretty much do as they please. The government's involvement in the provision of subsidies and benefits can also cause corruption, especially where the services are too low or limited to satisfy all who qualify, or when government officials use their discretion in allocating services.
3. *Corruption may also arise where firms and individuals want to avoid the cost of delay.* For example, businesses are likely to pay "speed money" in order to facilitate faster processing of application or documents. Individuals frisked at police check points in Nigeria are likely to pay bribe in order to avoid wasting their precious time. Similarly, individuals who apply for passports or driver's licenses in Nigeria are likely to pay bribe to speed up the issuing process.

Although the foregoing perspectives are very important in understanding the scope and severity of corruption in Nigeria, the rent-seeking and institutional theories offer more insights to the severity and scale of corruption that characterize the public sector in Nigeria.

The Scope of Corruption in Nigeria

Nigeria has been variously classified as a "failed," "failing," or "fragile" state in which governments consistently fail to honor the social contract entered with the people and in which kleptocratic and "lootocratic" practices have been identified as

significant debilitating indicators to its development.³² A failed state is one in which the institutions of the state and society are weak and lack the necessary capacity to manage society through various checks and balances. Nigeria operates a fiscal federalism with a strong central government that controls and distributes the main resources to the federating units--the states and LGAs. Nigeria has 36 states and 774 LGAs. Under this arrangement, both states and LGAs receive monthly appropriations from the federal government. According to Human Rights Watch (HRW) report, this system has led to the “decentralization of corruption”- a situation in which corruption has become rampant and an organized crime.³³ Some LGAs (in Abia, Bauchi, Kaduna, Ondo, Rivers, and Nasarawa states) have been accused of reckless spending and misappropriation of funds to the tune of N1.6 trillion (\$1=N150) between 1999 and 2007.³⁴

The scope of corruption has expanded significantly since the administrations of Generals Ibrahim Babaginda and Sani Abacha. For some scholars, Nigerian corruption has moved from prebendalism to predation in which office holders and public officials try to repay their supporters, family members, cronies, and ethnic group members with sums of money, contracts or jobs.³⁵ Corruption was blamed for the collapse of the first (1960-66) and second (1979-83) republics. Part of the reason for the burgeoning of corruption is the economy’s reliance on crude oil, which encourages rent-seeking and corruption. The US Senate Kerry Report noted a link between oil and corruption in Nigeria. Among other things, it noted that under- or over-invoicing of imports and exports were common practices, especially in the Nigerian National Petroleum Corporation (NNPC). There were also reports that about £212bn in oil money had been looted from the country’s treasury by past and present leaders, and that the EFCC was helping to combat an estimated £12 billion which was annually stolen from state coffers.³⁶

It is common practice for government contracts to be inflated because public officials factor in kick-backs, which are usually paid upfront before the completion of the contracts. Graft continues to prevent the judiciary from functioning adequately. There is a widespread perception that judges are easily bribed or “settled.” For example, there were long delays and frequent requests from judicial officials for small bribes to expedite cases.³⁷ The court Chief Registrar of the Federal Capital Territory, Abuja was charged N37 million for fraud and money laundering in 2005.³⁸ There were numerous allegations that legislators both at the national and state levels accepted bribes and favors from the executive branch to facilitate the passage of bills favorable to the executive branch. It was reported that some “powerful” Nigerians caused bank failures to the tune of N53 billion as a result of insider credit abuses.³⁹

Nigeria has been vulnerable to official venality. Elected officials, public servants, and military officials in position of authority use their positions to engage in corrupt activities. It has been projected by the EFCC that between 1960 and 1999 about £220 billion or \$380 billion has been plundered and squandered by public officials in Nigeria.⁴⁰ This is more than six times the amount the US provided for the reconstruction of post-World War II Europe under the Marshall Plan. During the early months of General Sani Abacha’s administration, an official report indicated

that an estimated \$12.2 billion had been side-tracked to off-budget accounts from 1988 through 1993, when General Ibrahim Babaginda was the Head of State.⁴¹ TI's 2004 Global Corruption Report listed General Sani Abacha (1993-98) among the top ten presidents who had allegedly embezzled between two and five billion dollars.⁴² The 2006 row between President Obasanjo and the vice president over corruption was indicative of how high corruption had permeated the Nigeria society. In fact, it has been estimated that during the eight years of the Obasanjo administration, Nigeria lost a minimum average of \$4 billion to \$8 billion per year to corruption (equaling between 4.25 percent and 9.5 percent of its total GDP in 2006).⁴³

Nigeria has been consistently ranked very low by TI. For examples, in 2006, Nigeria ranked 146 out of 163 with 2.2 corruption perception index (CPI) score; and in 2007, it was ranked 148 with 2.2 score.⁴⁴ According to TI, low CPI scores indicate that the public institutions are heavily compromised. Furthermore, TI noted that in Nigeria, more than 50 percent of bribes were directly asked for, while 60 percent were offered to avoid problems with authorities; and more that 40 percent offered bribes to obtain access to a service they were entitled to.⁴⁵ According to the Independent Advocacy Project (IAP) corruption index, the most corrupt sectors in Nigeria were the Nigerian Police Force, the Power Holding Company of Nigeria, the Ministry of Education, and the Customs and Excise Department.⁴⁶

The most worrisome aspect is that corruption is deepening and taking new dimensions, especially among the Nigerian states. The September 2006 EFCC report indicated that corruption among states had reached a tragic stage where some state governors were stealing, looting state treasuries and fronting relatives with state money to establish their own private businesses. For example, the governor of Abia State, Orji Kalu, was alleged to have siphoned government funds to the tune of N35 billion using his wife, mother, daughter, and brothers as fronts to establish a business empire which included Slok Airline, Slok Pharmaceuticals, and a newspaper house.⁴⁷ It is against this backdrop that this article examines the activities of the EFCC since its creation.

The Economic and Financial Crimes Commission (EFCC)

Given scope of corruption and the tarnished image of Nigerian in international circles, the Nigerian Government in 2002 created an anti-corruption agency with the mission "to curb the menace of corruption that constitutes the cog in the wheel of progress; protect national and foreign investment in the country, imbue the spirit of hard work in the citizenry and discourage ill gotten wealth; identify illegally acquired wealth and confiscate it; build an upright workforce in both public and private sectors of the economy and; contribute to the global war against financial crimes."⁴⁸ The creation of the EFCC marked a significant shift from rhetoric about fighting corruption to actually fighting corruption. Efforts by previous governments to provide the legal frameworks for combating corruption included, but were not limited to, the Miscellaneous Offences Act 1985; the creation of the National Drug Law Enforcement Agency in 1989; the Banks and Other Financial Institutions Act 1991; the Money Laundering Act of 1995; the Advanced Fee Fraud and Related

Offences Act 1995; and the Foreign Exchange Miscellaneous Offences Act 1995. Noble and desirable these efforts were, either they were strangled due to inadequate enabling laws and regulations or neglected for an apparent lack of commitment on the part of stakeholders to fight corruption in high places.⁴⁹

At the global level, by the late 1980s and early 1990s, there was increased pressure on developing countries by governments of industrialized countries and international organizations to combat and reduce corruption, which had become widespread and was a bane to economic development. For example, the Group 7 countries at its 1989 summit established the Financial Action Task Force (FATF) on money laundering. By 2001, the FATF had placed Nigeria on the list of non-cooperative countries.⁵⁰ It was against this backdrop of failed efforts and international pressure that President Olusegun Obasanjo adopted a multi-pronged approach to fight corruption in order to redeem Nigeria's image by creating or enacting the following: the Anti-Corruption Commission; the Due Process Office in the Presidency; the Corrupt Practices and Related Offences Act of 2000; and the EFCC Act of 2002.

The Purpose, Powers and Structure of the EFCC

The Establishment Act of 2002 (as amended in the EFCC Establishment, Etc. Act, 2003), bestows on the EFCC the broadest and most current laws against financial and economic crimes and terrorism in Nigeria. As a financial intelligence unit the EFCC is mandated to coordinate the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes, and terrorism.⁵¹ Under its broad economic and financial crime and terrorism mandate, the EFCC is charged with preventing, investigating, prosecuting, and penalizing financial and economic crimes such as illegal oil bunkering, terrorism, capital market fraud, cyber crime, advance fee fraud (419 or obtaining through different fraudulent schemes), banking fraud and economic governance fraud (transparency and accountability). The EFCC has extensive special and police powers including the power to: investigate persons and/or properties of persons suspected of breaching the provision of the Establishment Act of 2002 and any other law or regulation relating to economic and financial crimes in Nigeria.⁵²

The EFCC has enabling powers under the Establishment Etc. Act 2003 and 2004 to deal with terrorism and terrorist offences including: willful provision or collection of money from anyone, directly or indirectly, to perpetrate an act of terrorism; committing or attempting to commit, participate, or facilitate the commission of a terrorist act; and making funds, financial assets, or economic resources available for use by any person or persons to commit or attempt to commit, facilitate, or participate in the commission of a terrorist act.⁵³

The Structure

The EFCC is an independent agency headed by an executive chairman under the direction of a board. The chairman, supported by the directors of the five operations

units—financial crimes and intelligence; advance-fee fraud and other economic crimes, enforcement, and general operations; prosecution and legal counsel; organization and support; and training school—is the chief executive and accounting officer. The Commission receives support from the presidency, the legislature, and the judiciary. The agency also cooperates with like organizations from other countries to uncover corruption and money laundering activities involving Nigerians. In terms of its structure and organization, the Commission is committed to containing economic and financial crimes, generating and disseminating effective economic and financial crimes intelligence to assist law enforcement, and inculcating prudent and sincere dealing amongst Nigerians via a transparent value system and preventive measures.⁵⁴ The organizational structure reflects the major broad activity areas of the commission, namely, economic and financial crimes intelligence, investigation and enforcement, prosecution, crime prevention through mass communication and advocacy, and proactive and reactive execution of anti-terrorism operations. The head office is in Abjua, with regional offices in Lagos, Enugu, and Port Harcourt.

Activities of EFCC since its Creation

Following its establishment, the Commission swung into action by launching “Operation Redemption,” which was intended “to get all economic and financial criminals out of business and behind bars.”⁵⁵ The Commission challenged Nigerians to send any information on any government officials to it so that it could commence investigation. Nigerians responded, and those efforts paid dividends. The Commission has been involved in a number of investigations, arrests, and detentions resulting in indictments, return and recovery of stolen money, and imprisonment. The agency has been responsible for a number of high profile investigations such as that involving the former inspector general of Nigeria Police, Tafa Balogun who was accused of stealing more than \$121 million and was jailed for six months, fined \$30,000, and had property worth \$150 million seized.⁵⁶ The Commission was also responsible for the arrest of Hon. Morris Ibekwe (Imo State) for allegedly obtaining under false pretences the sum of \$300,000 from a German national and head of the Munich System Organization Company.⁵⁷ Other notable cases include the former governor of Lagos State, Major General Mohammed Buba Marwa; the former Chairman of the Nigeria Ports Authority, Bode George; the bribery scandal and fraud involving members of the National Assembly Committee and the Minister for Education over budget matters; the former governor of Bayelsa State, Chief Depreye Alamieyeseigha; the investigation of all state governors and local government officials as of December 2006; the thirty-year imprisonment of civil servant fraudsters in 2008; the trial of the Chairman of the National Electricity Regulatory Commission; and the trial of Mallam Nasir Ahmed El-Rufai, the Minister of the Federal Capital Territory, Abuja, in 2009.⁵⁸ The 2006 indictment of the serving Vice President, Atiku Abubakar for abuse of office, fraud, and embezzlement by both the EFCC and the Administrative Panel of Inquiry is indicative of how deep and

pervasive corruption has permeated the Nigerian society.⁵⁹ The list is almost inexhaustible.

In addition to its investigative power, the EFCC has the power to bring charges of corruption so that accused persons can be brought to court for criminal trial. In 2006, the EFCC had received 4,200 petitions on illegal corruption, investigated 1,200 cases, and taken 406 cases to the court.⁶⁰ After months of investigation of the petitions and allegations of corruption against thirty-one out of thirty-six states in Nigeria, the EFCC decided to indict fifteen governors and gave a clean bill to only six state governors.⁶¹ The appendix provides a summary of the list of governors that were indicted or under investigation or cleared of corruption in 2006. The EFCC's indictments, arrests, and reports on corruption involving high profile public officials were indicative of the distance high level public officials in Nigeria were willing to go to exploit, loot, steal, misappropriate and launder public money for personal aggrandizement instead of improving the well-being of the people.

Before the 2007 general election, the EFCC published an advisory list of corrupt and unfit candidates to hold public offices. The list was submitted to all registered political parties and the Independent National Electoral Commission (INEC). An analysis of the list of unfit politicians with respect to the spread among the major political parties showed that the Peoples Democratic Party had the highest number of unfit political office seekers (53), followed by the All Nigeria Peoples Party (39), the Action Congress (28), the Peoples Progressive Alliance (10), the Democratic Peoples Party (5), and the Alliance for Democracy (1). The spread among the states was: Zamfara (18), Adamawa (16), Taraba (15), Abia (12), and Bauchi (10).⁶² Furthermore, of the forty-three high profile cases amounting to over N1 trillion published by EFCC in October 2009, eleven involved former governors; five involved former federal ministers; two involved two serving senators and three serving members of the House of Representative; and several other cases involved high profile public civil servants⁶³

The EFCC has also made progress in the following areas:

- Recovered money and assets derived from crime worth over \$700 million, and £3 million from the British government between May 2003 and June 2004.⁶⁴
- Recovered N100 billion assets from ex-governors and N55 million bribes in 2005 from committee members of the National Assembly given as public relations to lobby for increase in education budget.⁶⁵
- Recovered N200 billion from fraudulent bank officials and \$700 million from corrupt public officers who allegedly looted public funds.⁶⁶
- Confiscated over forty oil tankers engaged in crude oil bunkering.
- Recovered \$750 million from 419 gangs and N50 billion worth of assets from the impeached governor of Bayelsa State, Chief Alamiyeseigha.
- Recovered over N85 billion by the Due Process Office.⁶⁷

- Put over five hundred suspects in custody and prosecuted one of the world's biggest fraud cases involving the perpetrators Amaka Anajemba, Emmanuel Nwude, and Nzeribe Okoli who duped a Brazilian banker, Nelson Sakaguchi, of about \$242 million.
- Indicted fifteen state governors in 2006.
- Made restitution to victims of 419 frauds recovered from scam investigations. For example, in October 2005, the EFCC refunded the sum of \$4.48 million to an 86 year old Hong Kong woman, Juliana Ching.⁶⁸
- Increased the revenue profile of Nigeria by about 20 percent due to its activities in the Federal Inland Revenue Service and the Seaports.
- Recovered revenue of over N20 billion from government, and billions more naira for the government in terms of failed contracts.
- Reduced crude oil bunkering activities in the Niger Delta region through prosecution of persons involved and confiscation of ships.⁶⁹
- Succeeded in securing the return of N50 million from the British Metropolitan Police Proceeds of Corruption Unit following the successful confiscation hearing of a mistress of a former governor of Plateau State, Chief Joshua Dariye.⁷⁰
- Assisting banks to recover bad debts that resulted from credit abuse by directors of failed banks. For example, it confiscated documents and property worth N3.5 billion of the Chief executive Officer of Tanzila Petroleum Company, Ltd. for defaulting on a bank loan.⁷¹
- It has forty three ongoing high profile cases in different courts at various stages involving politicians, office holders, lawmakers, businesses, and non-Nigerians.⁷²

Although the above examples are the tip of the iceberg, it is a significant and symbolic start. In cooperation and collaboration with other states and global actors such as the US Federal Bureau of Investigation, the UK's Office of Fair Trading and Metropolitan Police, and international actors such as the World Bank, the IMF, Egmont, and Microsoft, the EFCC is not only significantly contributing to the fight against corruption but is also helping salvage the hitherto negative image of Nigeria in the international arena. Nigeria's image has for too long been synonymous with corruption, and the EFCC is working hard to change this image. For example, in May 2007, Nigeria became a member of the internationally acclaimed Egmont Group of Financial Intelligence Units.⁷³

Challenges Facing the EFCC

The EFCC faces some major challenges in the fight against corruption. One is the claim of immunity from arrest and prosecution by the president, vice president, and

governors and their deputies. Many state governors and their legal defense lawyers have interpreted the provisions in subsections 308(1) and 308(2) of the immunity clause of the 1999 Constitution as giving absolute immunity from criminal prosecution while in office. As a result of this institutional and legalistic argument, it has been difficult to prosecute these governors and also the vice president and the president while in office. This claim of immunity is absurd because it was not the intention of the framers of the constitution to allow elected officials to steal and plunder the nation's wealth. However, although claiming immunity under subsection 308(1), governors can be prosecuted under civil law as provided by subsection 308(2).

The significant delays, frustrations, and waste of resources in the current prosecution regime constitute another challenge facing the EFCC. It has become an art for defense attorneys to ensure that financial crime cases do not continue, and substantive cases are never tried on their merits. Defense attorneys can delay and prolong cases by a tactic of applying for stays on proceeding. Where such application is not granted, the defense attorneys accuse the judges of bias and therefore grounds for application to transfer their cases to other judges.⁷⁴ Similar to the above challenge is the problem of congestion and the slow pace of court proceedings caused by an insufficient number of courts and judges and antiquated manual recording system. Delays and congestion in judicial proceedings can be reduced by establishing a special financial crime court for the adjudication of corruption and money laundering cases.

Of equally importance is the cyber nature of financial crimes. This has created a jurisdictional challenge and increased the costs of investigation and prosecution. The digital revolution has collapsed traditional physical boundaries and therefore altered the territorial jurisdiction for the prosecution of cyber crimes. Associated with this jurisdictional problem is the challenge posed by the increasing costs of prosecuting these cases, which run into millions of naira.⁷⁵ Furthermore, the EFCC faces the challenge of the inadequacy of the existing procedural laws in Nigeria that question the evidential status and admissibility of computer and electronically generated documentation.⁷⁶ In fact, the Nigerian legal procedural system has not kept pace with evidential value of information generated by the cyber revolution. Finally, the EFCC faces the challenge posed by instability and continuity in leadership. By the end of 2007, Alhaji Ribadu was ordered to proceed on study leave and replaced by Ibrahim Lamorde in an interim capacity; and on May 2008, Farida Waziri was appointed as the Chairman of EFCC.⁷⁷ Changes in leadership driven by partisanship without sufficient cause might jeopardize the efficacy of the Commission.

Conclusion

It has been the task of this article to examine the causes of corruption and the role of the EFCC in fighting it. Corruption in all its ramifications is severe and has permeated Nigerian society. The prevalence and preponderance of corruption activities dates back to the early independence period, but since the 1980s it has burgeoned to unprecedented proportion. Corruption occurs primarily when there is

a failure of established institutions and the lack of capacity by these institutions to manage frameworks of social, judicial, political, and economic checks and balances. In trying to understand the ramifications and severity of corruption in Nigeria, we have noted that although a clinical understanding of the causes of corruption and its widespread nature requires an application of all the perspectives for the explanation of the causes of corruption, both the rent-seeking and institutional theories offer deeper insights into the systemic nature of corruption.

It has been further noted that the rent-seeking activities causing corruption range from relationship between bureaucrats and their superiors, which provoke contests for positions, to the lack of transparency in financial institutions and the significant involvement of the government in the economy in the provision of goods and services. The web of relations established by rent-seeking activities coupled with decentralization of power among the various federal units in part explains corruption among the top echelon of government departments and the public sector. The major political parties continue to top the list of unfit or corrupt office seekers while elected officials, political appointees, police, customs and other public servants use their offices and positions to participate in corrupt activities.

The EFCC was created against the backdrop of previous failed schemes to combat corruption and the need to repair Nigeria's image to attract foreign investment. The EFCC as an investigative and prosecutory agency has made some inroads in the fight against corruption among public officers. By investigating and prosecuting corrupt public officials accused of corruption and publishing an advisory list of corrupt and unfit candidates, the EFCC hopes to deter Nigerians from engaging in corrupt activities. The article further noted the serious challenges faced by the nascent anti-corruption agency. Although the EFCC has continued to investigate allegations of financial and economic crimes against former state governors and other public officials of the Obasanjo era, the next few years could be a litmus test for the war against corruption. The challenges will be: whether the EFCC continues to enjoy the support of a new presidency and national legislature in the campaign against corruption; whether the EFCC succumbs to the allegation (by a minority) that it picks only a few persons, especially those with serious political ambition, as scapegoats and abandons its strategies; and whether the EFCC can to expand its adversarial investigative strategies to include the private sector and, more importantly, those who served in the previous military administrations of General Ibrahim Babaginda and General Sani Abacha, a period that witnessed the massive looting of the country's wealth by its leaders. These and others are the challenges that face the EFCC, and its future will depend on the political configurations that emerge.

Notes

- 1 Ribadu, 2007a.
- 2 The studies by Chukwuemerie (2003) and Malgwi (2004) expanded on the nature and scope of corruption and various mechanisms by various

Nigerian governments to deal with the problem. Although the role of the EFCC was discussed especially in Malgwi, the agency was at its early years of existence.

- 3 Ribadu, 2007b.
- 4 TI Report, 2005.
- 5 Malgwi, 2004, p. 149.
- 6 Nye, 1978, p. 564.
- 7 World Bank, 1997; Bhargava, 2005, p. 4.
- 8 UNDP, 2004, p. 2.
- 9 Transparency International, 2002.
- 10 Lui, 1985; Etzioni, 1988; Klitgaard, 1988, 1991; Rose-Ackerman, 1975, 1996, 1999; Alatas, 1990; Shleifer and Vishny, 1993, 1998; Bardhan, 1997; Elliot, 1997; Jain, 1998, 2001a, and 2001b; Aidt, 2003.
- 11 Wade, 1985; Kpundeh, 1995; de Bois and Ferrer, 2000; Mendoza, n.d.; Virtucio and Lalunio, n.d.; Kallon, 2003.
- 12 Myrdal, 1968 and Leff, 1970.
- 13 Merton, 1958 and Abueva, 1978, pp. 534–39.
- 14 Abueve, 1978, pp. 534–39.
- 15 Klitgaard. 1988; Mauro. 1995, Knack and Keefer, 1996; Rose-Ackerman, 1999; Kallon, 2003; including studies by the World Bank, 1997, 2000; UNDP, 2004
- 16 See for instance Croall, 2003; Malgwi, 2004; Chukwuemerie, 2004; Gottschalk, 2010.
- 17 World Bank, 2000. pp. 1–2.
- 18 Kallon, 2003; Gire, 1999; UNDP, 2004.
- 19 Mydral, 1968; Huntington, 1968, 1979.
- 20 De Darden 1999.
- 21 Kallon, 2003.
- 22 Kpundeh 1995; Akerlof and Yellen, 1990; Lee, 1986.
- 23 Gire, 1999 applied Maslow's 1943 and 1970 concepts of hierarchy of needs and Bandura's 1986 and 1988 observational learning theory in his study of corruption in Nigeria.
- 24 UNDP, 2004, p. 2.

- 25 HRW, 2007a.
- 26 Klitgaard, 1988 and 1991.
- 27 Shleifer and Vishny, 1998.
- 28 Ibid.
- 29 Report to the US Senate (Senator Kerry Report), 1993.
- 30 *Financial Times*, August 2006.
- 31 Lewis, 1996.
- 32 Obuah and Enyinda, 2004; Foreign Policy, 2006; World Bank IEP, 2006.
- 33 HRW, 2007a.
- 34 Ribadu, 2007c.
- 35 Lewis, 1996.
- 36 *Independent*, 14 August 2006:21.
- 37 US Department of State 2005.
- 38 EFCC 2005.
- 39 Jamiu and Uwah, 2010.
- 40 *African Abroad*, 1999; Ribadu, 2007a; HRW 2007.
- 41 Lewis, 1996.
- 42 TI, 2004.
- 43 HRW, 2007b, pp.31-2.
- 44 TI, 2007.
- 45 TI 2005.
- 46 IAP, 2007.
- 47 *The Nigerian Guardian*, 28 September 2006; *Vanguard*, 28 September 2006; *THISDAY*, 28 September 2006.
- 48 EFCC, 2004.
- 49 Ribadu, 2004a.
- 50 Although Nigeria was listed as non-cooperative in 2001, by June 2003 the TAFT had determined that it had ,made some significant progress in the fight against corruptionand removed it from the list of non-cooperative countries. See Malgwi, 2004, p. 146.
- 51 EFCC, 2004.
- 52 Ibid.

- 53 Ibid.
- 54 Ibid.
- 55 Ribadu, 2003.
- 56 BBC News, 2005.
- 57 EFCC, 2003.
- 58 EFCC, 2008, 2009a and b.
- 59 Atiku Abubakar was indicted for alleged corruption in the disbursement of the Petroleum Development Fund, which was placed in the Trans International Bank and the Equatorial Trust Bank. Following the indictment, the INEC denied him the right to compete in the presidential election. A Lagos High Court voided the documents that contained the allegations, and the Supreme Court later ruled that Atiku should compete for the election (Ajani et al., 2006; BBC News, 2007).
- 60 *Vanguard*, 28 September 2006.
- 61 *THISDAY*, September 28, 2006; *Vanguard*, September 28, 2006; *The Guardian*, September 28, 2006.
- 62 Analysis was based on information culled from these sources:
www.nigeria-
friends.com/forum/display_printer_threads.asa?ForumID&TopicID;
www.lists.mayfirst.org/pipermail/friends/2007-February/001541.html;
and
www.efccnigeria.org/index.php?option=comcontent&task=view&id=123
3&Itemid=2; *Nigerian Muse*, 2007.
- 63 EFCC 2009c. The former governors were from the following states: Ekiti, Plateau x2, Jigagwa, Abia, Delta, Edo, Tarawa, Enugu, Adamawa, and Oyo. The estimated N1 trillion was the amount the author calculated based on the separate amounts published by EFCC.
- 64 www.efccnigeria.org.
- 65 *THISDAY*, 12 June 2007.
- 66 EFCC, 2007a.
- 67 *Vanguard*, 28 September 2006; www.efccnigeria.org.
- 68 Ribadu, 2005.
- 69 Ribadu, 2004a.
- 70 EFCC, 2007b.

- 71 Aminu, 2009; Ojeifo 2009.
- 72 EFCC, 2009c.
- 73 The Egmont Group, which has over 106 members with headquarters in Toronto, Canada, is an international network of FIUs that was formed in 1995 to promote the exchange of financial intelligence information and enhance global cooperation in the fight against money laundering and terrorist financing (Nwajah, 2007).
- 74 Ribadu, 2004b.
- 75 Ibid.
- 76 Ibid.
- 77 *THISDAY*, 2008 May 16.

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Appendix

Appendix EFCC Investigation of State Governors in 2006

Indicted Governors	State	Governors under investigation	State
Chimaroke Nnamani	Enugu	Adamu Mu'azu	Bauchi
Oriji Kalu	Abia	Peter Odili	Rivers
Boni Haruna	Adamawa	Ahmed Markafi	Kaduna
Ayo Fayose	Ekiti	Lucky Igbinedion	Edo
Adamu Abdullahi	Nasarawa	James Ibori	Delta
Jolly Nyame	Taraba	Bola Tinubu	Lagos
Joshua Dariye	Plateau	Gbenga Daniel	Ogun
Sani Ahmed	Zamfara	Attahiru Bafarawa	Sokoto
Saminu Turaki	Jigawa		

Indicted ex-state governors	State	Governors cleared of corruption	State
Chris Agige	Anambra	Donald Duke	Cross River
Muhammed Lawal	Kwara	Danjuma Goje	Gombe
Abubakar Audu	Kogi	Bukola Saraki	Kwara
		Abba Ibrahim	Yobe
		Adamu Aliero	Kebbi
		Peter Obi	Anambra

Sources: Compiled from *THISDAY* newspaper, September 28, 2006, www.thisdayonline.com/nview.php?id=59397&printer_friendly=1; *Vanguard* newspaper, September 28, 2006, www.odili.net/news/source/2006/sep/28/399.html; *The Guardian* newspaper, September 28, 2006, www.odili.net/news/source/2006/sep/28/48.html; *Nigerian Muse*, 2007.