



The Pursuit of Good Governance and the Anti-Financial Corruption Blitz in Nigeria: A Study of the Economic and Financial Crimes Commission (EFCC) (2003-2016)

Otu Offiong Duke¹ and Dickson David Agbaji^{2*}

¹Department of Public Administration, University of Calabar, Calabar, Nigeria.

²Department of Political Science, University of Calabar, Calabar, Nigeria.

Authors' contributions

This work was carried out in collaboration between both authors. Both authors read and approved the final manuscript.

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ABSTRACT

The study examines the extent to which the Economic and Financial Crimes Commission (EFCC) has been able to tackle financial corruption and its gangrenous effects in Nigeria between 2003 and 2016. The study relied on systematic qualitative content analysis of secondary sources of data, and the strain theory was adopted as the tool of analysis for the study. A cursory thrust into the political culture of corruption in Nigeria's history revealed that even with the establishment of anti-graft agencies and legislations by the distinct administrations, financial corruption has, nevertheless, continued to wax stronger and escalate like wildfire. The paper argues that corruption has been perpetrated with impunity, that there exists a porous intelligence base in the pursuit of financial corruption cases, that unnecessary politicking by the government and the elites limits the EFCC's effectiveness, and that the existence of the immunity clause, plea bargain and judicial redtapism and misconducts short-changes the pursuit of the rule of law and the delivery of justice which, in turn, hamper on the anti-graft war of the EFCC. The paper, therefore, recommends the pursuit of good governance and genuine political will in the anti-graft war, incorporation of a strong scientific base in the investigation and persecution of financial corruption cases, and granting the EFCC autonomy to operate freely but under specific legal codes.

*Corresponding author: Email: dicksonagbaji@gmail.com;
Co-author: Email: otuduke76@yahoo.com;

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1. INTRODUCTION

It has been over half a century since her independence from Great Britain, yet even after attaining self-governance and despite the vast amount of human and material resources at her disposal, Nigeria has not been able to achieve sustainable human and economic development, steady growth and progressive change, and more than 70% of her inhabitants are still living in poverty and are devastated by terrorism and diseases. This is as a result of the fact that the existence of corruption in the society is a central threat to the politico-economic development of the nation as evident in the annual corruption reports by Transparency International (TI). To solve this pervasive phenomenon, corruption, attempts by different successive political leaderships at different times in the nation's history have been made. Notably in 2003, former President, Chief Olusegun Obasanjo, created the Economic and Financial Crimes Commission (EFCC) to help in the fight against corruption. "Its establishment", [1] writes, "was meant to satisfy one of the conditions of the International Financial Action Task Force (FATF) to remove Nigeria from the list of countries associated with corruption in international financial transactions". This agency, though it has been criticized by a number of critics as well as being applauded by some apologists, has since been adopted by successive administrations in the Fourth Republic. In fact, the distinct administrations within this period declared a zero-tolerance on corruption through the medium of the rule of law and through the EFCC. Yet, as [2] noted, there are reasons to be apprehensive of their ability like other governments before them, to combat corruption going by their body languages and actions.

It is worth reiterating that corruption in Nigeria is systemic and the Nigerian state has suffered immensely as a result. To that extent, therefore, this piece delves to undertake an assessment of the impact of financial corruption on the Nigerian state and the efforts of the EFCC in combating corruption in Nigeria; to know whether corruption has been fought or institutionalized; to determine the adverse effects of corruption on the development of Nigeria; and to identify factors that impede on the performance of the EFCC. It is our aim that we add to the debate on the effectiveness of the anti-graft war undertaken by the EFCC.

1.1 Statement of the Problem

The issue of corruption in Nigeria, believed to be systemic, endemic, pervasive, and a significant contributor to increased inequality and sluggish economic growth, has attracted national, regional and international concerns. This arises because, ideally, Nigeria, one of the most natural and human resources endowed nations on earth, ought to have been highly developed. But the reverse is the case where the Nigerian state is flawed with poverty, graft and a maddening disregard for accountability and transparency; resulting in individuals devising schemes to loot the treasury in what can be termed "the sharing of the National Cake syndrome". Also, the high level of corruption in Nigeria is epitomized in Nigeria's consistently poor scores in Transparency International (TI) Corruption Perception Index (CPI) and this reduces both foreign and local investments and the integrity of the government in its supposed war against corruption. For instance, Nigeria ranked 136th out of 175 countries in TI's 2014 and 2015 assessments. This translates to the fact that there are no signs of improvement. More so, the EFCC's anti-graft war has been debased by a number of factors like politicking, immunity, and judicial redtapism and misconducts, and if this is not properly checked, the agency would become a double tragedy: a medium via which opponents are fought or intimidated; and a safe haven for elites of all works of life. In this vein, the country is in an appalling state because of the menace of corruption which has extended its tentacles across the entire gamut of our society and consuming everything in its path like wild fire.

2. LITERATURE REVIEW

2.1 Corruption

Corruption means so many different things to so many different people at different times and places. This is, *inter alia*, attributable to its multidimensional nature as it carries political, economic, social, cultural, religious, ideological and/or historical outlooks, as well as to the existence of laws, regulations and systems of sanction. For instance, corruption, etymologically, is traceable to the Latin word, "corruptus" translated to mean "to destroy, rot, or spoil", and/or, as Waziri cited in [1] stated, the Greek word "corropius", meaning "an aberration or misnomer". Sorkaa defined corruption as an

unethical or deviant behaviour. It connotes an erosion of ethics and accountability [3]. For Usman Yusuf, corruption means the deliberate violations, for gainful ends, of standards of conduct legally, professionally, or, even ethically established in private and public affairs. These gains may be in cash, or, kind, or, it may even be psychological, or political, but they are made from the violation of the integrity of an entity and involve the subversion of its quality and capacity [4]. Also, J.S. Nye saw corruption as the behaviour which deviates from the formal duties of a public role because of private (gains) regarding personal, close family, private clique, pecuniary or state gain; or a behaviour which violates rules against the exercise of certain types of duties for private gains regarding influence [5]. This definition includes such behaviour as bribery (payments made so as to gain an advantage or to avoid a disadvantage), nepotism (unfair practice by a powerful person of giving jobs and other favours to relatives), and misappropriation (the use of public/corporate funds for what it was not budgeted for) [3,6].

Some studies have taken a more piecemeal approach in their dissection of corruption by compartmentalizing it into disparaged forms and subdivisions. For instance, for [2], the subtypes of corruption are bureaucratic/administrative, social, political, economic/financial, legal, technological, and cultural corruption. [7] notes that political/grand, economic, bureaucratic/petty, and electoral corruption make-up the types of corruption. For [8], the subtypes are political, bureaucratic, electoral, and corporate (or economic) corruption. Nonetheless, this research is mainly concerned with financial corruption.

2.1.1 Financial corruption

Financial corruption also lacks a uniform definition, and it is sometimes substituted for economic or corporate corruption. To [8], economic corruption which also refers to corporate or financial corruption, occurs in the relationship between private business corporations and their vendors or clients (usually political office-holders or elites of all works of life). It can also take place within a corporation where officers use company's resources for private aggrandizement at the expense of the share-holders.

Financial corruption is very common in the business and/or corporate world with a lot of political liaisons to fast-track the process of

corruption which borders on undue financial advantage and on the usurpation of economic opportunities. In this vein, it can be said that financial corruption marks a total deviation from the original status-quo of all activities in both the public and private spheres motivated especially by economic benefits. For the purpose of this study, therefore, the definition is provided thus: "financial corruption refers to all forms of unethical behaviour, malfeasance and any illegal use of power in both the public and private domains, spanning from the giving and acceptance of monetary rewards, the concealment of funds and assets obtained illegally, to other non-monetary benefits (that usually border on political and economic decision-making), for individualistic, family or group gains which will alter the ethos that condition authoritative positions, procedures and legal systems of sanction".

2.2 Good Governance

Good governance, to [9], focuses on the process whereby public institutions conduct and manage public affairs and resources and guarantee the realization of human rights in a manner essentially free of abuse and corruption, and with due regard for the rule of law. It is epitomized by predictable, open and enlightened policy-making, a bureaucracy imbued with a professional ethos, an executive arm accountable for its actions, and a strong civil society participating in public affairs, and all behaving under the rule of law [10]. The true test of good governance is the degree to which it delivers on the promise of human rights, civil, cultural, economic, political and social rights [9]. Hence, in a context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development [11].

The concept is best appreciated when viewed against the backdrop of the fact that the focus of the leadership has always been predatory with the overriding consideration for self-aggrandizement rather than for nation-building. In this wise, as [10] noted, bad governance has clouded the Nigerian state resulting to high level of corruption, lack of transparency, weak accountability, poor organization and lack of technical capacity, lack of responsiveness, inefficiency and poor motivation. Therefore, and

very unfortunately too, there is a vicious relationship between bad governance and corruption, and both reinforces poverty and subverts efforts to reduce it. Little wonder [12] was of the opinion that the trouble with Nigeria is that of bad leadership. This is clearly seen in the Mo Ibrahim Index of African Governance (IIAG) where Nigeria in 2015 scored 46.5 and ranked 36th out of 54 countries, an abysmal result giving the position the maintenance of democracy and peace occupies in its domestic and Afro-centric foreign policies. To the IIAG, the Nigerian governments have performed poorly to ensure “safety and rule of law, participation and human right protection, sustainable economic opportunity, and human development” (which are its four indices for good governance).

2.3 Theoretical Framework

The study adopts the strain theory. Stemming from criminological and sociological traditions and sometimes referred to as the anomie theory and/or the means/end theory, strain theory was originally developed by Robert K. Merton in 1957, and later by Albert Cohen (1955), Richard Cloward and Lloyd Ohlin (1960), Robert Agnew (1992), etc. The theory focuses on the pressures society exerts on its members and groups so as for them to attain specific goals (like wealth accumulation and respected status) even though the means and opportunities (which are usually socio-culturally defined) for attaining these goals are limited or unevenly distributed amongst members and groups of the society. Thus, as [13] wrote, this brings groups with less access to legitimate means for acquiring wealth to search for alternative, possibly illegitimate means, dubbed by Merton as “innovation”. Therefore, the primary instrument through which deviance and criminality are fostered has its origin in goals-means discrepancies [14]. Three important points are noteworthy: first, the need to attain goals stirs competition, and this culture of competition which is at the core of industrialized capitalist societies is a prime feature of strain theory; second, strain is created by the ambitiousness with which goals are stipulated as well as the feeling that the stipulated goals are threatened and may not be achieved owing to limited available means; and third, the adopted illegitimate means can simultaneously correspond with widely accepted societal standards – little wonder [13] noted that in systemic corrupt societies, clientelism and patronage are the norm and not taking part might be seen as deviant behaviour.

This is discernible in Nigeria where society demands the attainment of goals from its citizens even though the means to meet these goals are limited. This consequently pressurizes citizens to take varied steps, both legitimate (hard work and good work ethics) and illegitimate (bribery, fraud, embezzlement, over-invoicing, etc.), to meet the societal expectations. An aspect from which this point can be understood is the demand to accumulate wealth and live luxuriously without minding the income differential. In many nations, the payment of workers has fallen drastically. Now, if public sector pay is low, corruption becomes a survival strategy, and in such case, workers are more likely to accept payoffs as salary supplement [15]. Small wonder, in Nigeria, society does not take seriously any reason for a college lecturer or a banker not to have a comfortable home and a good car, for political leaders and public administrators not to live in affluence or make huge donations at luncheons, etc. Thus, one is celebrated and usually given chieftaincy titles when one accumulates wealth regardless of where one gets the monies from. This alone breed corruptive tendencies in individuals.

3. RESEARCH METHODOLOGY

The relevant data which were required for the study were largely collected through the adoption and utilization of the systematic qualitative content analysis of secondary data sources particularly journal articles, text books, newspapers, magazines, web-pages, among others.

4. CAUSES OF CORRUPTION

A number of perspectives on the causes of corruption exist. These include, inter alia, economic hardship/recession, impunity, low-level of salaries, greed, materialism, discrimination in wealth distribution, poverty, kleptomania, political instability, ignorance and low level of educational attainment, high societal tolerance, need for societal recognition, etc.

- i. Greed: The Nigeria society is one clouded by rapacious life style; a lot of persons are never contented with what they have, and this translates into the nation’s political culture. Small wonder, the Nigerian politico-economic sphere has become saturated with the appalling notion that politics and the occupation of privileged positions even in the private sector is business, a means to an end; the end

being the accumulation of wealth through illicit means. This notion, therefore, prompts those in authoritative positions to seek the acquisition and retention of power so as fast-track the theft of the general good and their affluent living standard at the expense of an overwhelmingly impoverished population;

- ii. Impunity: Impunity creates situations where high-level political power is abused for the benefits of a microscopic few at the expense of the masses; it ensures that the politically powerful are not brought to book for their arbitrary, illegal and criminal acts. For instance, those involved in masterminding the invasion of the town of Odi by the Nigerian military in 1999 during the Obasanjo administration which claimed the lives of hundreds and the perpetration of arson have not been investigated, let alone prosecuted. This was a crime against human right and justice ought to have been pursued, but the reverse is the case. In this vein, when the corrupt and powerful getaway with their crimes, the perpetration of more corruption is encouraged, the rule of law is diminished and large scale societal disintegration and instability become inevitable;
- iii. Low-level of salaries: The minimum wage as well as the porous welfare schemes and working environment/condition of the Nigerian workers which do not allow for decent standard of living as compared to what is derivable in other countries, even in Africa, is very embarrassing. In fact, it is near impossible for one to live comfortably on an eighteen thousand naira monthly salary (the Nigerian minimum wage) in an economy on a perpetually inflating scale, and the situation is even unimaginable when the worker has dependents. This alone makes the average Nigerian workers vulnerable to corrupt tendencies like bribery, extortion, fraud, ghost workers syndrome, misappropriation, embezzlement or diversion of funds, money laundering, etc.

5. THE COST OF CORRUPTION IN THE NIGERIAN SOCIETY

The costs of corruption are very debilitating to the society. First, corruption causes leakages of public funds, stunted economic growth and mass poverty in the nation. Nuhu Ribadu in 2006 said that about \$220 billion (about ₦65 trillion) has

been stolen by past Nigerian leaders since independence. Commenting on this, Luke Onyekakeyah wrote in the Guardian of October 31, 2006:

“What else could have brazenly subjugated and enslaved Nigeria and its people? ...the stolen ₦65 trillion quoted by Ribadu was only part of \$500 billion Official Development Assistance (ODA) granted to Nigeria during the four decades... Add ₦65 trillion to Nigeria’s total earnings from crude oil during the same period, which is put at \$600 billion (about ₦84 trillion) by the African Development Bank (ADB), that will be ₦149 trillion! That is to say our past leaders corruptly stole our collective patrimony, which could have recreated the beauty and glory of Western Europe fourteen times” [4].

Also, corruption reduces competition and efficiency, and foreign direct investments because corruption usually leads to the theft of invested funds. It also prevents small businesses from meeting up with their start-up costs, and results to the loss of protection from foreign competition for the already existing businesses, which need for their survival, as much protection as possible from the government.

Corruption constitutes a major obstacle to democracy, undermines the rule of law, results to misguided/non-people-oriented policies, and creates a culture of unaccountability and opaqueness in the system e.g., the Security Vote in Nigeria which Governors are not accountable to anyone for. So, they can aggrandize it at the masses’ expense.

Environmental degradation is yet another consequence of corruption. Gas-flaring, pollution of water and air, and the degradation of land (owing to mining activities) have become a recurring decimal especially in the Niger Delta region of Nigeria. Legislations are available to guide industrial activities but these oil companies tend to collaborate with the government and deny the Niger Delta region proper rehabilitation and/or compensation. The Movement for the Emancipation of the Niger Delta (MEND), the Niger Delta Avengers (NDA), etc., can be said to be a reaction to this corrupt practice.

6. THE POLITICAL CULTURE OF FINANCIAL CORRUPTION IN NIGERIA

Corruption in Nigeria has a long and hybrid history. The First Republic (1960-1966)

witnessed unprecedented levels of corruption. For instance, Chief Obafemi Awolowo in 1962 was indicted by the Justice G.B. Coker Commission of Enquiry for diverting public funds to the tune of £7.2 million from government coffers to those of his private firm, the National Investment and Property Corporation, and into the purse of the Action Group. The Western Regional Government subsequently acquired all the property hitherto belonging to the firm [16]. The situation prompted the military to strike in 1966 but corruption continued nonetheless. For instance, the Belgore Commission of Inquiry indicted the Gowon government for inflating contracts for cement on behalf of the Ministry of Defence which needed 2.9 million metric tons of cement at a cost of ₦52 million as against the 16 million metric tons it ordered at a cost of ₦557 million [17]. Instead of abating, corruption only worsened during the Second Republic under Alhaji Shehu Shagari. It was claimed that over \$16 billion in oil revenues were lost between 1979 and 1983 [17]. The level of corruption also increased with Generals Ibrahim Babangida's and Sani Abacha's regimes after the military struck in 1985 and 1993 respectively. For instance, the Pius Okigbo Report of 1995 indicted Babangida for his inability and/or refusal to account for the (about) \$12.4 billion that accrued to Nigeria from the Gulf War Oil sales [18]. More so, the United Nations Industrial Development Organization (UNIDO) reported that about \$107 billion was kept in private accounts in Switzerland, the UK and Paris by Gen. Abacha. Also about ₦400 billion was purportedly looted by Abacha and his military goons [19]. This level of corruption resulted to Nigeria being ranked by Transparency International in 1996-1997 as the most corrupt nation on earth [20,21] (for more details, see Appendix A).

The return of the country to civil rule witnessed the different administrations' declared interest to fight corruption to a standstill in Nigeria. Despite their promises, the regimes were smeared by high-level of corruption. For instance, in August, 2007, Hamman Tukur, Chairman, Revenue Mobilization Allocation and Fiscal Commission (RMAFC), reported that the Nigerian National Petroleum Company (NNPC) had withheld a total sum of ₦560 billion from the Federation Account from December 2004 to April 2007 [4]. Also, Mrs. Patricia Etteh, the first female speaker of the House of Representatives, was alleged of misappropriating public funds to the tune of 628 million Naira (5 million USD) for the purchase of

twelve official cars and for the renovation of her official residence [22]. More so, in April 2012, a House of Representatives committee led by Farouk Lawan charged with investigating the fuel subsidy program (2009-2012) released a report showing (in addition to the claim by Dr. Ezekwesili that \$6.8 billion was drained from Nigeria between 2009 and 2012 in the fuel subsidy scam) the stealing of ₦32.8 billion (\$210 million) Police Pension Fund [23]. In a view to curb corruption in Nigeria, the Buhari-led administration has shown its support of the EFCC's operations and presentation of evidence to indict public officers, e.g. the EFCC arraigned Patrick Akpobolokemi, sacked director-general of Nigerian Maritime Administration and Safety Agency (NIMASA) on a 40-count charge of fraud and money laundering to the tune of about ₦34.5 billion; the EFCC is prosecuting Sambo Dasuki (Former NSA) and others, in the \$2.1 billion Arms Deal scandal (Dasukigate); etc. However, some persons like Ayo Fayose, Femi Fani-Kayode, Sambo Dasuki, among others, have argued that his supposed anti-corruption blitz is one against his political opponents.

7. THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC) AND THE FIGHT AGAINST FINANCIAL CORRUPTION IN NIGERIA, 2003-2016

The need to curb corruption and lack of accountability in Nigeria necessitated the creation of the EFCC in 2003 by President Olusegun Obasanjo. The Commission was formed based on the provision of Section 15(5) of the Constitution of the Federal Republic of Nigeria, 1999; "The state shall abolish all corrupt practices and abuse of power". The government later promulgated the EFCC Act in 2004 to give legal backing to the Commission. The EFCC vis-à-vis its functions which include inter alia (1) the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, contract scam, etc.; (2) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds; (3) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes; and (4) collaborating with government bodies both within and outside

Nigeria carrying on functions wholly or in part analogous with those of the Commission [24,25], made some moves towards combating corruption by initiating the “Operation Redemption” intended “to get all economic and financial criminals out of business and behind bars” [4]. Consequently, the Commission has in many respect been able to achieve some successes by fast-tracking the investigation, arrest, interrogation, prosecution, conviction of (and/or recovery of stolen monies from) individuals involved in financial crimes.

In this wise, under its first Chairman, Nuhu Ribadu, in October 2005, the EFCC scored its first break when Tafa Balogun, former Inspector-General of Police, was sentenced to a six-month jail term, fined \$30,000 and property worth \$150 million seized for stealing over \$121 million (about ₦13 billion) from the federal budgetary allocation to the Nigerian Police Force [4,26]. Also, Chief Bode George was arraigned alongside five others (Aminu Dabo, Olusegun Abidoye, Adullahi Tafida, Zanna Maidaribe, and Sule Aliyu) on a 163-count charge (truncated to a 68-count charge) bordering on alleged contract inflation and misappropriation of Nigeria Ports Authority (NPA) funds to the tune of ₦85 billion. Though they were convicted and sentenced to a two-year jail term [27] by the Court of Appeal, Lagos Division, in January 2011, they were, however, acquitted of all charges by the Supreme Court [28]. More so, Diepreye Alamieyeseigha, former governor of Bayelsa State, arraigned on a six-count charge bordering on fraud and money laundering to the tune of ₦683 million, was sentenced to two years in prison on each charge.

Furthermore, the EFCC prosecuted one of the world’s biggest fraud cases involving Nigerian fraudsters Mrs. Amaka Anajemba, Mr. Emmanuel Owude, and Mr. Nzeribe Okoli (and their conviction) who duped a Brazilian banker, Mr. Nelson Sakaguchi, about \$242 million [8,4]. Also, the Commission investigated, arraigned, and facilitated the conviction to an 18-months jail term and the forfeiture of assets and funds worth over ₦191 billion, of Cecilia Ibru, the Managing Director and C.E.O. of the Oceanic Bank Plc., for illicit deals of corruptly amassing and recklessly granting credit facilities without security against due process [29].

More so, Patrick Akpobolekemi, sacked Director-General of Nigerian Maritime Administration and Safety Agency (NIMASA) and others – Captain Ezekiel Agaba, Ekene Nwakuiche, and two

companies, Blockz and Stonez Limited and Al-Kenzo Logistic Limited – were arraigned on 22-count of ₦2.6 billion theft belonging to NIMASA [30]. Also, the EFCC arraigned Sambo Dasuki (former NSA), Bashir Yuguda (former Minister of State for Finance), Attahiru Bafarawa, Sagir Attahiru, Raymond Dokpesi, Shaibu Salisu, Abbah Mohammed, Haliru Mohammed, Aminu Babakusa on a 47-state count charge bordering on fraud and money laundering of the arms procurement funds to the tune of \$2.1 billion.

More so, the former EFCC boss, Lamorde Ibrahim, in August 2015, announced gleefully that the Commission since its inception had so far secured the conviction of over 1,000 fraudsters in the nation’s public and private sectors, while hundreds of other cases were pending [31]. On a more precise trajectory, the EFCC recorded 105, 117, 126, 103, and 125 convictions in 2012, 2013, 2014, 2015, and 2016 respectively (<https://efccnigeria.org/efcc/public-notices>), i.e. a total of 576 convictions in 5 years. These figures, nonetheless, the level of corruption does not diminish after EFCC’s efforts; Nigeria’s poor scores in Transparency International’s Corruption Perception Index and the IAG are testimonies to this. Also, a view of the various pending high-profile cases, and the conviction lists found on the EFCC’s official website would show one that the share of government corruption over total corruption figures is minute. The government corruption is only more pronounced because it involves persons in whom public trusts have been vested upon and the amount of monies involved. As a matter of fact, the conviction lists exposes that corruption is high in the banking sector especially amongst private individuals who use the banks to circumvent monetary policies and banking processes and to aid the looting of the common good.

Whilst we must give some credit to the EFCC for its recorded successes in prosecuting and convicting corrupt individuals, a long list, however, of yet to be concluded or abandoned and wrongly judged cases still abound. In this vein, we strongly doubt that the activities of the EFCC justify the plethoric praises showered on it. Basically, the EFCC is just a leashed guard-dog, or at best, a paper-tiger seeking attention to show off its ‘stripes’ as it was told to do by former President Jonathan in the caption of the article by Aminu in Daily Times Newspaper in 2014: “Jonathan tells EFCC, ICPC to flaunt achievements”. Hence, Nigeria is in trouble.

The premises for our stance include the appalling fact that the EFCC does not follow-up, with gusto, the corrupt charges brought against ex-governors, senators and/or politicians who are the god-children of those in power as well as other political elites (Olusegun Obasanjo being a quintessential elite). It is believed that as long as one has the blessings and backing of the Presidential Villa one can misappropriate and siphon resources; but only to the extent that such person must be cooperative and obedient to the dictates of the powers that be. This is a reason why most of the corrupt charges levelled against many government officials were (and are still being) dropped or ignored to die natural death. A quintessential example is the EFCC's investigation of Senator Iyabo Obasanjo-Bello in April 2008 for receiving ₦10 million (\$100,000) stolen from the Ministry of Health. Albeit, the Minister, Mrs. Adenike Grange and her deputy, Gabriel Aduku, lost their jobs, Senator Iyabo dramatized her case out of court and eventually went scot-free. The EFCC and the court have maintained silence on the case [29,32]. The reverse of this is the 2006 indictment of Atiku Abubakar for abuse of office, fraud and embezzlement by both the EFCC and Administrative Panel of Inquiry [8]. This indictment initially led to the disqualification of Atiku's Presidential candidacy by the INEC on March 15, 2007 but it took the irrevocable verdict of the Supreme Court to clear him, Abubakar, of all charges, and by extension, to enable him contest in the 2007 Presidential Elections (an election he lost to the late Musa Yar'Adua). Atiku was gunning for presidency in 2007, while Obasanjo, a third term; so there was a clash of interest. More so, Obasanjo was alleged to have offered up to ₦50 million (over £200,000) in bribe to legislators to back the amendment of the constitution in order to fast-track his third term ambition [26] but this case was not pursued.

Furthermore, the Halliburton scandal involving some international conglomerates, Siemens AG (Germany) and Halliburton (USA) which were both exposed for collaborating with various Nigerian officials in corrupt practices to the combined tune of at least \$436 million [16], blemishes the EFCC's acclaimed anti-corruption blitzkrieg. Whereas the USA and Germany succeeded in prosecuting their culprit citizens in the Halliburton scandal in recorded time, the EFCC has, however, gone silent on, and perhaps abandoned the case, one which in many high profile Nigerians were involved. But some questions arise: when the prosecution of

collaborators abroad by their home countries is facilitated by the availability and presentation of undeniable documents and oral testimonies, should not the EFCC have communicated with the foreign agencies so as to get the needed information -documents and other related evidences—to fast-track the prosecution of criminals here in Nigeria for the sake of justice and good governance? Can it not then be said without any equivocation that Nigeria/the EFCC are not keen on fighting corruption?

Also, the EFCC has not been able to prosecute high profile cases successfully, except for very few ones such as the conviction of Chief Lucky Igbinedion, Mr. Tafa Balogun, Chief Diepreye Alamieyeseigha, and Dr. (Mrs.) Cecilia Ibru, etc. A profound illustration of this is the court judgment of the James D. Ibori case. Whereas he was sentenced to 13-years imprisonment by a Southwark Crown Court in London, he was acquitted of the 170-count charges levelled against him in Nigeria because of insufficient pieces of evidence to jail him. A pending case is that of Joshua Dariye, former Plateau State governor, who was arraigned on a 23-count charge bordering on money laundering to the tune of ₦700 million and he was found to have acquired ₦10 million in benefits through criminal conduct in London [27,23]. Also the EFCC had charged former PDP governorship candidate for Abia State in 2007 general elections and former chairman of the Niger Delta Development Commission (NDDC), Chief Onyema Ugochukwu before a Federal High Court, Abuja for corrupt practices and handling of about ₦10.2 billion while serving as the chairman of the NDDC and inflating contract value for the construction of a 15 kilometre road in Obehimkpologwu from ₦250 million to ₦880 million, and contract value for the construction of a road in Umuahia from ₦180 million to ₦462 million [29,27], but the case has gone to rest. More so, the case involving George Eider the head of Avsatel Communications Nigeria Limited, Professor Babalola Borishade and Femi Fani-Kayode, former Aviation Ministers, over the fraudulent handling of ₦19.5 billion Aviation International Fund, and the inflation of the Safe Tower Project contract by ₦4.5 billion [4] is still pending since 2008 (see Appendix B for more information).

As [1] notes "since the revelation and the report of the Farouk Lawal Panel, no one has been prosecuted if not the dramatic event that followed

to rubbish the credibility of the Farouk Lawal Committee and its report. Hence, there was a deliberate attempt, as noted by Zakari Mohammed, the Chairman House Committee on Media and Public Affairs in the House of Representative, not to implement the Lawal's report; the investigation was calculated to fail from the beginning considering the controversy and intrigues which surrounded the report.

To that extent, therefore, the EFCC seems handicapped to prosecute these and more cases; what we have is the lack of political will to follow-up cases till justice is served.

8. CONSTRAINTS FACED BY THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)

The EFCC has been confronted with some challenges in its anti-graft war. These challenges include but not are limited to the following:

- i. Undue political interference from the government and the political class. As long as the EFCC is still dependent on the Federal Government and its Chairman is still being appointed and removed by the Presidency, the limit of its effectiveness is already set ab initio, and this makes the EFCC be selective in its work. To prove this, Vanguard of January 30, 2007 reported Nuhu Ribadu to have said "if I don't do what the President asked me to do, he is going to fire me and I don't want to be fired" [4].
- ii. Immunity clause and plea bargain short-change the pursuit of the rule of law and the delivery of justice which, in turn, hamper on the anti-corruption campaign of the EFCC. For Barrister Ike Okonjo, the Chief Legal Adviser of the EFCC, the immunity clause is "an aberration to the dictates of the rule of law, and an obstacle in the war against corruption". Owing to this Constitutional provision, Section 308 precisely, which essentially applies only to four (4) categories of individuals - President, Vice President, Governors, and Deputy Governors - it has been extremely difficult to prosecute these public officers while they are in office. For instance, Alao-Akala, former Governor of Oyo State, looted over ₦1 billion in just 11 months, but he could not, however, be tried in court until the expiration of his tenure because
- iii. There exists a porous intelligence base in the pursuit of financial corruption cases in Nigeria. It has been observed that certain cases are not been investigated well enough, that case files get abandoned or lost, and that key witnesses, who are supposed to be protected by the agency, are usually found dead or missing. The death of Ma'aji Mohammad Iro and Abdulmalik Dalhatu (two of the EFCC's key witnesses in the ₦ 29 billion fraud cases against Murtala Nyako, former Adamawa State Governor, and his son, Abdulazis), the Halliburton scandal case file believed to have been abandoned, and the insufficiency of evidences to jail James Ibori, are quintessential cases.
- iv. Another issue is that of the credibility of the judiciary in Nigeria. Since the EFCC cannot try anyone because it has not the jurisdiction to, the law courts become the next port-of-call to grant fair hearings and issue verdicts. However, there have been cases in Nigeria where judges help perpetrate corruption and the acquittal of criminals. A case in point is the arrest of judges directly linked with the alleged electoral judgment fraud in Rivers and Akwa Ibom States. They include: Justices Nwali Sylvester Ngwuta and John Inyang Okoro of the Supreme Court; Justice Muhammad Ladan Tsamiya of the Court of Appeal, Ilorin Division;

he was covered by the constitutional immunity [33]. Another is the suspension of the case against the Ekiti State Governor, Ayo Fayose, who was, in November 2012 arraigned on a 27-count charge bordering on the usurpation and mismanagement of public funds to the tune of ₦406 million because of the constitutionally backed immunity clause (the accused was elected governor in 2014). Despite this provision, the immunity clause is not absolute; Section 308(2) clearly stipulates the circumstances under which immunity cannot be claimed. Hence, a dedicated agency/government can still investigate and prosecute seating corrupt President, Vice President, Governors, and Deputy Governors without encroaching on their immunity. This could be achieved if the case is presented, as [34] wrote, in such a way to be considered as in a breach of their official duties, or if they are joined as nominal parties to an action, even though they remain the main target.

Justice Adeniyi Ademola of the Federal High Court; Justice Kabir Auta of the Kano State High Court; Justice Mu'azu Pindiga of the Gombe State High Court; and Justice Innocent Azubike Umezulike of the Enugu State High Court [35,36]. The abovementioned judges are part of a number of judges under investigation by the Department of State Security (DSS) and the Economic and Financial Crimes Commission (EFCC). The other judges under investigation include: Justice Uwani Abba-Aji of the Court of Appeal; Justice Mohammed Yunusa of the Federal high Court; Justice Munir Ladan of the Kaduna State High Court; Justice Bashir Sukola of the Kaduna State High Court; Justice Zainab Bulkachuwa, the current President of the Court of Appeal; Justice Ibrahim Auta, the Chief Judge of the Federal High Court; Justice Abdul Kafarati of the Federal High Court; Justice Nnamdi Dimgba and Justice Anwuli Chikere of the Federal High Court [35]. To address this dire issue of corruption in the judiciary, the National Judicial Council (NJC) led by the Chief Justice of Nigeria (CJN), Hon. Justice Mahmud Mohammed, has taken several steps aside criticizing the conflicting judgements of the lower courts, and these include ensuring the compulsory retirement, dismissal, and turning over to the police for prosecution, etc., of judges who have been indicted sequel to reports of abuse of judicial powers, bribery, corruption, and fraud. Though starting from the top echelon of the judiciary, this cleansing process, it is believed, will extend to the lowest rung of the judiciary.

- v. As [8] rightly notes, "another challenge that faces the EFCC is the significant delays, frustration and waste of resources in the current prosecution regime". This is closely related to the antecedent point above. According to Ribadu, it has become an "art" for defence attorneys to ensure that financial crime cases do not go on and substantive cases are never tried on their merits, by applying for stay on proceeding. Where such application is not granted, the defence attorney accuses the judges of bias and, therefore, grounds for application to transfer their cases to other judges [8]. To address this challenge, the CJN admonished judges and other legal practitioners to adopt and apply the

Practice Directions on Serious Crimes (2003) and the Administration of Criminal Justice Act (ACJA) (2015) aimed at reducing criminal trials, providing that applications for stay of proceedings shall no longer be heard in respect of a criminal matter before the court, and ensuring that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime, and protection of the rights and interests of the suspect, the defendant and the victim [37]. These frameworks have become powerful tools to reduce delays in corruption trials.

9. CONCLUSION AND RECOMMENDATIONS

It has been a much reiterated fact within this study that financial corruption is systemic in, and endemic to, Nigeria. As a matter of fact, it may not be out of place to opine that corruption is a primary cause of all problems the Nigerian state is saddled with; it has assumed a defining character of the nation, presenting cataclysmic reactions and damages in gargantuan proportions within the polity, and the destruction of what is held as cherished national values. Despite the moves to establish new, and the operations of existing, anti-graft agencies and legislations such as the EFCC (our focus), Independent Corrupt Practices and Other Related Offences Commission (ICPC), Nigeria Extractive Industries Transparency Initiative (NEITI), Public Procurement Act, Money Laundering Prohibition Act etc., to curb corruption, the appalling situation that stares us in the face is that the EFCC has been bastardized by many factors and is yet to achieve much. Hence, one can hypothesize as well as argue that it is an undeniable fact that the activities of the EFCC have not been effective in tackling corruption in Nigeria, and as such, the Commission does not yet worth the plethora of praises showered on it. This is based on the inability of the EFCC to successfully prosecute especially high-profile corruption cases; what we have is the lack of political will to follow-up cases till justice is served, as well as on unprecedented interferences from the political class and other elites of the all works of life which limits the EFCC's effectiveness, and this makes the EFCC be selective in its work.

Since the activities of the EFCC have been ineffective in combating financial corruption in Nigeria, financial corruption will continue to be our aggregated national albatross. It is against this belief that the following recommendations are proposed:

- i. The government vis-à-vis the pursuit of good governance should imbibe genuine political will in the anti-graft war, make people-oriented policies (with capital expenditure occupying pre-eminence in national/state budgets), and provide basic social amenities.
- ii. Immunity clause and plea bargain need to be removed as they are incentives for more corruption and increase the degree of discretion of officials.
- iii. For the anti-graft war is to be won, the EFCC should be made autonomous. This can be done by ensuring that the Commission generates and controls its own funds so that it does not depend on the federal government for its daily activities. This time it will determine its own fate on how far it is willing to go to prosecute any case. Also, the Chairman should enjoy political independence and security of tenure so as to limit the tendencies to politicize the appointment, and the arbitrary firing, of the Chairman.
- iv. Under the auspices of the National Judicial Council and the Nigerian Bar Association, the judiciary should be astute in the dispensation of justice and it must sanction legal practitioners who discredit the legal profession through the passage of biased verdicts, the deliberate delay to prosecute criminal cases, etc.
- v. The degree of punishment for financial crimes should be increased. The capital punishment, death, is not advocated here but increase in the jail terms and/or fines to be paid when the accused persons are found guilty.
- vi. The anti-corruption campaign in the form of political education should be introduced in the curricula of schools from the primary and secondary schools as ethical/social studies, up to the tertiary institutions as anti-corruption studies. This would ensure the social and intellectual re-engineering the nation needs.
- vii. The creation of incentives for advanced researches, by the government and private sector, into a corruption-free society is necessary.

COMPETING INTERESTS

Authors have declared that no competing interests exist.

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APPENDICES

Appendix A. Nigeria's Corruption Perception Index (CPI) (1996-2014)

Year	Rank	No. of countries survey	CPI score
1996	54	54	0.69
1997	52	52	1.76
1998	81	85	1.9
1999	98	99	1.6
2000	90	90	1.2
2001	90	91	1.0
2002	101	102	1.6
2003	132	133	1.4
2004	144	145	1.6
2005	152	158	1.9
2006	142	163	2.2
2007	147	179	2.2
2008	121	180	2.7
2009	130	180	2.5
2010	134	178	2.4
2011	143	183	2.4
2012	139	176	2.7
2013	144	177	2.5
2014	136	175	2.7
2015	136	175	2.7

Source: Anayochukwu A. *Beyond EFCC's theatrics. Tell (August 7).2015; 33: p. 17; Transparency International Corruption Perception Indices 1996-2008*

Appendix B. Some corruption cases handled the Economic and Financial Crimes Commission (EFCC) between 2003 and 2016

S/N	Names	Charge	Amount involved	Case status
1	Joshua Dariye (former Plateau State Governor)	Arraigned on 32 counts	₦ 700 million	Case pending, granted bail since 2007.
2	Saminu Turaki (former Jigawa State Governor)	Arraigned on 32 counts	₦ 35 billion	Granted bail by court since 2007.
3	Orji Uzor-Kalu (former Abia State Governor)	Arraigned on 107 counts	₦ 5 billion	Case still in court; granted bail since 2007.
4	James Ibori (former Delta State Governor)	Arraigned on 170 counts	₦ 9.2 billion	Granted bail since 2008 (sentenced by UK court).
5	Iyabo Obasanjo – Bello	Arraigned on 56 state counts	₦ 10 million	Case thrown out for lack of merit.
6	Lucky Igbinedion (former Edo State Governor)	Arraigned on 191 state counts. Plea taken	₦ 4.3 billion	Case determined, ordered to pay \$25 million as fine.
7	Chimaroke Nnamani (former Enugu State Governor)	Arraigned on 105 state counts	₦ 5.3 billion	Granted bail by court since 2007; case pending.
8	Roland Iyayi (former M.D. FAAN)	Arraigned on 11 state counts	₦ 5.6 billion	Case still in court; granted bail since 2008.
9	Nyesom Wike (former Chief Of Staff to the Governor of Rivers State)	Arraigned on 6 state counts.	₦ 4.67 billion	Accused acquitted by Federal High Court, Abuja.
10	Michael Botmang (former Plateau State Governor)	Arraigned on 31 state counts	₦ 1.5 billion	Accused acquitted by Federal High Court, Abuja.

S/N	Names	Charge	Amount involved	Case status
11	Kenny Martins (Police Equipment Fund)	Arraigned on 28-count charge	₦ 774 million	Accused set free by Federal High Court Abuja.
12	Prof. Babalola Borishade (former Minister of Aviation)	Arraigned on 11 state counts	₦ 5.6 billion	Case finding, granted bail since 2008
13	Bode George (PDP Chieftain).	Arraigned on 68 state counts	₦ 100 billion	Sentenced to 2-year term, but later discharged and acquitted by a Supreme Court ruling
14	Rasheed Ladoja (former Oyo State Governor)	Arraigned on 33 state counts	₦ 6 billion	Case still in court; granted bail since 2008.
15	Hamman Bello Hammed (Ex-Comptroller General, Customs).	Arraigned on 46 count charges	₦ 2.5 billion	Case pending; granted bail since 2009
16	Rasome Owan, Abdulrahman Ado, Adulrasak Alimi, Onwuamaeze Iloeje, Grace Eyoma, Abimbola Odubiyi	Arraigned on 196 state counts. Plea taken	₦ 1.5 billion	Case pending granted bail in 2009.
17	Cecilia Ibru (former CEO, Oceanic Bank Plc)	Arraigned on 25 state counts	₦ 160.2 billion	Convicted and sentenced to 18 months jail terms; to forfeit assets and funds worth over ₦191 billion.
18	Solomon Adigwe, Peter Ololo, Jadon Secutifier	Arraigned on 36 state counts	₦ 277.3 billion	Suspects remanded in prison custody and later granted bail in 2009.
19	Francis Atuche (former CEO, Bank PHB)	Arraigned on a 26 count charge. Plea taken	₦ 80 billion	Suspect remanded and later granted bail in 2009, his assets frozen.
20	Adamu Abudallahi (former Nasarawa State Governor)	Arraigned on 149 counts	₦ 15 billion	Case pending; granted bail by court.
21	Attahiru Bafarawa (former Sokoto State Governor).	Arraigned on 47-count charge	₦ 15 billion	Granted bail by court; case slated for trial.
22	Hassan Lawal (former Minister Of Works)	Arraigned on 37-count charge	₦ 75 billion	Case pending; granted bail by court.
23	Dimeji Bankole (Former House Of Rep. Speaker), Usman B. Nafada (Former Deputy Speaker).	Arraigned on a 17 count charge	₦ 40 billion	Case dismissed by court in January 31, 2012.
24	Godwin N. Elumelu (former House Of Representatives Chairman of the Committee on Power), Nicholas Ugbane.	Arraigned on 156-count charge	₦ 5.2 billion	Case dismissed by the court in March 27, 2012.
25	Ayo Fayose (Ekiti State Governor).	Arraigned on a 27-count charge	₦416 million	Case suspended because of immunity clause (the accused was elected as governor of Ekiti State in 2014).
26	Esai Dangabar, Atiku Kigo, Inuwa Wada, Uzoma Attang, Veronica Onyegbula and Sani Zira.	Arraigned on a 20 count charge	₦ 20.8 billion	Accused persons are still standing trial.
27	Steven Oronsaye (former Head of Civil Service of the Federation).	Arraigned on a 24-count charge	₦6 billion	Commenced on July 15, 2015; case still on-going in court

S/N	Names	Charge	Amount involved	Case status
28	Abdulahi Alao (Director, Axenergy Ltd).	Arraigned on 7 count charge.	₦ 2.6 billion	Commenced on July 26, 2015; case still on-going in court.
29	Patience Eye, Afolabi Johnson, Ilori Adekunle, Kolawole Babalola, Olaniran Adeola, and Fatai Yusuf.	Arraigned on 28 state counts	₦ 8 billion	Case still on-going in court
30	Abubakar Audu (former Kogi State Governor) and Alfa Ibn Mustapha.	Arraigned on 36-state counts	₦ 10.9 billion	Case pending, granted bail by court
31	Sule Lamido (former Jigawa State Governor), Aminu Lamido, Mustapha Lamido, Aminu Abubakar, Batholomew Agoha	Arraigned on 28 count charge.	₦ 1.3 billion	Commenced on September 22, 2015; case still on-going in court.
32	Sambo Dasuki (former NSA), Bashir Yuguda (former Minister of State for Finance), Attahiru Bafarawa, Sagir Attahiru, Raymond Dokpesi, Shaibu Salisu, Abbah Mohammed, Haliru Mohammed, Aminu Babakusa.	Arraigned on 47 state counts bordering on fraud and money laundering.	\$2.1 billion	Commenced in December, 2015. Case still on-going in court.
33	Ikedi Ohakim (former Imo State Governor).	Arraigned on 3-count charge.	₦ 57.9 billion	Case pending; granted bail since July 2015.
34	Murtala Nyako (former Adamawa State Governor), M. Nyako Abdulaziz, Zulkifikk Abba, Abubakar Aliyu	Arraigned on 37 state counts.	₦ 29 billion	Case pending; granted bail by court since July 2015.
35	Ibrahim Mazangari, M. Sani Sulaiman, Hajia F. Mazangari, Saleh Y. Tsojon	Arraigned on 29-count charge	₦ 1.2 billion	Commenced in September 2015; case still on-going.
36	Patrick Akpobolekemi (former D.G, NIMASA)	Arraigned on 40 count charge.	₦ 34.5 billion	Commenced in September 2015; granted bail by court.

Source: Anayochukwu A. *Beyond EFCC's theatrics. Tell (August 7).2015; 33: pp. 19-20; Mohammed U. Corruption in Nigeria: A challenge to sustainable development in the Fourth Republic. European Scientific Journal. 2013; 9(4): 130-131*

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