

Corruption in Nigeria: Perceived Challenges of The Economic and Financial Crimes Commission (EFCC) in The Fourth Republic

Umoh, O. O.

*The Department of Psychology
University of Uyo, Uyo, Akwa Ibom State, Nigeria.
E-mail: umohokokon@yahoo.com*

Ubom, A. S.

*Department of Forensic Psychology
Walden University, United States of America.*

ABSTRACT

Although corruption in Nigeria is often traced to the pre-colonial era, the trend became exacerbated during the 'corrective' military regimes, beginning from the mid 1980s. Since then to date, corruption has sustained in the Nigerian polity, steadily permeated the walls of subsequent governments and negatively impacted on all facets of the economy. Paradoxically, while successive administrations, researchers, non-governmental organizations (local and foreign), and many other stake holders have instituted various mechanisms and initiatives aimed at stemming the tide of corruption in Nigeria, the scenario continues to assume a deplorable state by the day; a condition which has already caused devastation of huge proportion and is ready to wreck further havoc if left unaddressed. Therefore, drawing quantitative data from one hundred and eleven (111) staff of the Economic and Financial Crimes Commission (Port Harcourt Zonal Office), this paper adopted the cross sectional survey design to explore corruption-related challenges faced by EFCC in Nigeria's fourth republic. Attempts to account for the prevalence of corruption in Nigeria placed this study within the ambits of Alfred Bandura's Observational Learning theory. The study was directed by three research questions and insights gleaned from frequency counts and percentages confirmed that the immunity clause is a major impediment to EFCC's fight against corruption in Nigeria. Results also indicated that high poverty rate in Nigeria impact negatively on EFCC's fight against corruption. Based on these findings and cognizant of the various dimensions of abuse of the constitution perpetuated by Nigerian politicians and public servants, this paper among other things, throws it weight behind the recent call for the review of the 1999 constitution of the Federal Republic of Nigeria with the specific import of amending section 308 (1).

Keywords: *Immunity Clause, Bribery, Constitution, observational learning*

INTRODUCTION

The Nigerian society is presently inflicted with unresolved societal malaise such as militancy (Akinwale, 2010; Umoh, Thompson and Adick, 2012), insecurity (Arpomuvire and Egbadju, 2010; Hazen and Horner, 2007) and poverty (Kumolu, 2012). Compounding these vices is the upsurge of corruption - operationalized in this study as a routine deviation

from established standards and norms by public officials and parties with whom they interact (Ayobami, 2011). The interplay of these forces has placed Nigeria in a state of disequilibrium as activities in various social institutions have become rather unethical and synonymous with decadence. In the words of Akindele (1995), just a handful would disagree with the contention that in Nigeria today, nepotism, extortion, bribery, embezzlement, favouritism, fraud etc., have become a way of life and have affected the vital structures and organs of government that make for Nigeria's progressive functioning, thus putting her very existence in serious jeopardy. This accords Nigeria the unfortunate history of being ranked among the most corrupt nations of the world (Salisu, 2000; Dode, 2006; Office of the head of Service of the Federation, 2011).

Corruption in Nigeria could be traced from the primordial stage (Jibril, 2011). It has a long, if not 'respectable' history - transcending the pre-colonial, through the colonial, to the post-colonial era of Nigeria's development. Accordingly, Mamadu (2009) observe that in the pre-colonial era, appointment of officers into the courts by traditional rulers was characterized by bribery. Forced labour, bribes, extortions by way of arbitrary fines and illicit taxes helped maintain a system of clientage and peasants were afraid to complain as those in leadership utilized such opportunity for self-aggrandizement (Mamadu, 2009). In the colonial era, our nationalists were each accused of various degrees of corruption, with varying levels of justification. After the civil war (Jibril, 2011), many uniform men who left the barracks and were now after seats in government plundered the economy, seizing the opportunity to divert national funds to their private pockets. The third republic that emerged from series of military dictatorships may not have recorded any success as it was dominated by economic difficulty and noted to be notoriously corrupt and incompetent. This culminated in yet other rounds of military governments in the 1980s; a condition which Nigerians are yet to forget, neither have the country's economy recovered from the resultants. Little wonder why corrupt practices have steadily infiltrated, sustained and really gained dominance in Nigeria's fourth republic (Mamadu, 2009).

Cognizant of the upsurge and the attendant effects of corruption in the Nigerian state, successive administrations have put in place various mechanism to check this menace. Such efforts include, but not limited to: The Corrupt Practices Decree of 1975, the War Against Indiscipline (WAI) campaign, the Code of Conduct Bureau of 1990, Advance Fee Fraud and other Related Offences Decree of 1995, Independent Corrupt Practices Commission and most recently, the Economic and Financial Crimes Commission of 2004. The focus of this paper is on the latter.

With the advent of the democratic fourth republic, President Obasanjo emphasized in his inaugural speech in May 1999 that corruption - the greatest single bane of our society would be tackled head - on (Tell Magazine, February, 20th 2006; Mamadu, 2009). Thus in 2004, against the backdrop of adverse international attention received by the nation due to the high rate of economic and financial crimes (Waziri, 2010), the National Assembly enacted the EFCC Act, empowering the agency with the responsibility of enforcement of all economic and financial crime laws.

The Non-governmental organizations are not left out of this struggle to rid Nigeria of this menace (Ibrahim, 2003). Independent moves by the aforementioned have however yielded unfruitful results. This paper therefore attempts to register its contribution to the plethora of documented solutions to the persistent nature of corruption in Nigeria in spite of the efforts of the anti-graft agency-EFCC. This effort would not only serve the purpose of sensitizing stakeholders on the prevalence, trend and extent of this problem, but would also be useful in re-strategizing and redesigning workable frameworks/intervention modalities within the Nigerian state.

The high rate of corruption in Nigeria is explicated by Alfred Bandura's (1971) observational learning theory. This theory posits that much of what humans learn is obtained by observing others (imitation or modeling). This seems to be more effective and efficient than learning through direct experience. Four main processes involved in observational learning are worth mentioning here: attention, retention/representation, behavioural reproduction and motivation. How do these explain the prevalence of corruption in Nigeria?

Cases of corruption abound in Nigeria. Most bribes received by top officials go through intermediaries, some of who are subordinates of these officials. Politicians and government officials who were hitherto living from hand to mouth prior to appointments often begin to build houses, are commonly seen living ostentatious life styles shortly after being appointed to 'lucrative' positions that grant them access to money or influence. 'Attending' to the behaviour of the model (the politician in this case) is eminent here. It is not also difficult to see the 'motivation' in modeling the corrupt practices that have been 'attended to' and with which Nigerians have ample 'motivation' to 'reproduce'.

Another important dimension of observational learning is the factor that determines whether or not a particular behaviour would be modeled - the consequence(s) of the observed behaviour on the model and the impact on learning when a model is punished for a given behaviour. This compels one to ask the questions -what typically happens to appointed or elected officers who engage in corrupt practice in Nigeria? The answer is 'hardly anything at all'. Nigerians clearly see individuals whose only source of income is supposed to be their salary living several times above their means, yet few, if any of these people are ever questioned, let alone tried for these corrupt behaviours. Such behaviours are motivated, activated and sustained in other Nigerians who are observing.

Section 308(1) of the 1999 constitution of the Federal Republic of Nigeria bestows certain privileges on the president, the vice president, the thirty six states governors and their deputies. Under this section, they are not to be prosecuted while still in office. This is known as the immunity clause (Bashir, 2009). This constitutional provision paints the picture, at least to most Nigerians that politics facilitates easy ascendancy to power and wealth, justifying the observation that the highest level of corruption is in the corridors of power. At this level, corruption is carried out in over-inflated contracts with selfish motives, executing and re-executing contracts, public officers diverting monies meant for their respective populace, organizations and sectors into personal accounts, etc. The scenario painted above has generated growing concerns on the need to amend the constitution with a view to expunging the immunity clause there from. Such removal, some scholars hypothesize,

will check executive lawlessness, promote responsive leadership as well as ease the work load of EFCC (Adejumo, 2008; Ezenwa, 2009; Bashir, 2009). On the contrary, another school of thought holds that the constitutional interest in ensuring the executives' ability to perform their functions outweighs the competing interest for civil or criminal litigation to proceed while occupying that office (Oladele, 2006). Apart from the controversy surrounding the immunity clause in the Nigerian constitution and the effects on the functionality of EFCC, this paper is also interested in the constitutionality or otherwise of EFCC's establishment; a status which has either placed the anti-graft agency in an autonomous state or otherwise to tackle the menace of corruption in Nigeria. Some scholars are unequivocal in asserting that EFCC did not derive its power from the constitution, but from the EFCC Act, buttressing the unconstitutionality of its powers and the illegality of the Commission's actions. Thus, with the constitution being the superior law in the country, EFCC Act remains ineffective in prosecuting corrupt officials in events where the powers of the constitution are invoked (Adegboyega, 2007; Nwabueze, 2007; Okoi-Uyouyo, 2008). However, a variant of the above submission holds that though EFCC was not enlisted in the constitution like the police, the army, navy, air force and was conceived in the womb of complex local and international politics, it is vested with broad investigative and prosecutorial powers and it is not in doubt that its birth, growth and current existence have given strength to the fight against official graft in Nigeria (Ogunye, 2007; Mamadu, 2009). Various studies across the globe support the assertion that corruption is wide spread in Nigeria and indeed other developing countries not because people in these countries are different or do not want integrity in the public life, rather it flourishes because conditions in the developing countries are ripe for it (Wolfenshon, 1999; Ibrahim, 2003; Okoi-Uyouyo, 2008; Dike, 2009; Johnson, 2010). In essence, poor reward system and lack of economic opportunities present serious problems in a society whose citizens are achievement oriented. With the preceding literature in mind it becomes pertinent to chart a direction for this study with the aid of the following research questions:

- i To what extent is the immunity clause an impediment to EFCC's fight against corruption in Nigeria?
- ii Is EFCC constitutionally autonomous to offer solutions to the problems of corruption in Nigeria?
- iii How does the rate of poverty in Nigeria impact on EFCC's effort in fighting corruption?

METHOD

Cross-sectional survey design was adopted for this study. Two major sources provided data for this study: The primary and secondary sources. Data collection from questionnaire administered to members of EFCC workforce (Port Harcourt zonal office), observations and personal interviews formed a bulked of the primary sources of data. Secondary data were obtained from text books, newspapers, journals, internet articles etc. In this study, one hundred and eleven (111) staff of EFCC were surveyed. Seventy seven (77; 69.4%) of this were male while thirty four (34; 30.6%) were female staff. Eighty three (83; 74.8%)

were Christians, twenty eight (28; 25.2%) were Muslims. A three-item questionnaire developed by the researchers and structured in a three-point scoring format of 'Agree', 'Don't know', and 'Disagree' was employed in data collection. The questionnaire was constructed to probe into three major dimensions of perceived challenges encountered by EFCC in the course of carrying out their official duties namely: Immunity clause as enshrined in the Nigeria constitution, lack of autonomy by EFCC and the harsh economic conditions in Nigeria.

Informed consent was assumed on completion and return of questionnaire by respondents after the aims and objectives of the study were adequately explained to the authorities of the commission who endorsed the execution of the study. Thus as staff were reporting for duty, they were made to collect questionnaire from the front desk. The researchers, together with research assistants went from office to office after about fifty five minutes to retrieve the completed questionnaire as the instructions and statements of the questionnaire were adequately explanatory. Anonymity was guaranteed by ensuring that the respondents' identification details were not documented, thus information projected into the questionnaire could not be traced to the respondents. About one hundred and fifty (150) questionnaire were produced and administered. Twenty (20) of this were wrongly filled while nineteen (19) could not be retrieved from respondents. The researchers were therefore left with one hundred and eleven (111) questionnaires with useable data for analysis. Quantitative data were described using simple frequency counts and percentages.

RESULTS AND DISCUSSION

Three statements formed the bulk of the questionnaire employed in data collection. Statement 1 which stated that the immunity clause prevents EFCC from prosecuting sitting executives in events of allegation of corruption attracted the following responses: 102 (91.89%) respondents agreed, 7 (6.31%) did not know, while 2(1.80%) disagreed to this statement. Statement 2 was designed to probe into the constitutional autonomy of EFCC. It stated that lack of autonomy/independence by EFCC makes the Commission indulge in selective fight against corruption in the country and the following responses were elicited: 32(28.84%) agreed with this statement, 20(18.02%) did not know, while 59(53.15%) disagreed. Respondents however confirmed statement 3 which stated that the rate of poverty in Nigeria is so high that many Nigerians today have embraced corruption as an alternative means of survival, as 93 (83.79%) agreed, 6 (5.41%) did not know and 12(10.81%) disagreed.

Results of our study have provided insights to our first research question 'to what extent is the immunity clause an impediment to EFCC's fight against corruption in Nigeria?' The response trend to statement 1 indicated that the immunity clause is really an impediment in fighting executive corruption in this country. This position is a far cry from the assertion of Oladele (2006), who maintain that the immunity clause has so many advantages in the process of governance. According to this school, the president and state executives who are uniquely immune from prosecution helps to stabilize the functioning of government as indicting or prosecuting a sitting president or governor would impermissibly interfere with

the executive's capacity and its ability to perform its constitutionally assigned function and thus would be inconsistent with the constitutional structure. However, our findings support Adejumo (2008); Bashir, (2009); Ogbodo (2009); Ezenwa (2009); Waziri (2010) who argue that expunging the immunity clause from the constitution would bestow more powers on EFCC to prosecute the executive without undue legal restriction. In fact Adejumo (2008) specifically based his argument on the premises of morality in law, saying that it is wrong to say nobody is above the law, yet some people enjoy immunity against prosecution. Obviously, our findings support the removal of the immunity clause. However the system of scrutiny where any executive is charged with impropriety while in office must be established by law, through legislation, to prevent diligent, honest and scrupulous executive from possible witch-hunt of corrupt lieutenants and others who may feel offended by the actions of such honest executive.

The third statement that the rate of poverty in Nigeria is so high that many Nigerians today have embraced corruption as an alternative means of survival is also supported by our findings. Ironically, Nigeria is richly blessed with natural resources, yet so many amidst the plentiful and bounteous wealth continues to die of starvation, diseases and incalculable natural disaster (Mamadu, 2009). Definitely those who cannot afford to die from these artificially created situations would rather take to corrupt means for survival.

In explaining the causes, prevalence and extent to which corruption has wrecked Nigeria, this paper adopted Alfred Bandura's principle of observational learning. Same paradigm would be employed to paint a scenario of the implication of our findings. As indicated by this theory, the consequence(s) of an act on a model are key determinants of whether or not a particular behaviour would be modeled. When the executives, protected by the immunity clause in the constitution, are seen to be glaringly corrupt, but go unpunished, there is no reason for others not to imitate these corrupt activities. Apart from emulating corrupt politicians, the immunity clause in the Nigerian constitution explains why most elections in Nigeria are characterized by blood shed and mayhem. All these are attempts at clinching on to positions of power where looting of government treasury are not investigated.

CONCLUSION AND RECOMMENDATIONS

This paper recognizes the wisdom behind the grant of immunity to the executive by the constitution. It is a well-founded, well-focused concept which has sundry benefits when applied honestly and scrupulously for the greater good and benefit of the society. However, results of this survey are pointers to various abuses that the immunity clause has been put to, especially by the executives. The electorates have witnessed a great demonstration of such since 1999. Thus to enhance the functionality of EFCC in prosecuting offending executives, results of this study support the removal of immunity clause from the constitution. However, the system of expunging the clause from the constitution, thus making room for actual scrutiny of the executive to be charged for financial impropriety while in office should be established by law through legislation and/or constitutional procedure. This will pave the way for defaulting executives to be punished for offences they have committed

while in office. From our theoretical standpoint, it is obvious that for punishment to be effective, it has to be uniformly applied to all that are guilty of corruption. If punishment is selectively applied, people will likely note the exception and find ways to join this exclusive class. Government should also put in place economic policies that can enable people meet up with their basic needs and make honest work profitable. No doubt people who are secured of their basic needs can look forward to attaining higher needs such as self esteem, integrity and pursuit of excellence.

REFERENCES

- Adegboyega, S.** (2007). EFCC is Illegal. *The Guardian*, October 2, 2007.
- Adejumo, A.** (2008). Petition to Remove the Immunity Clause from the Nigerian Constitutions. *Http://www.Chaporifornigeria.org*. Accessed: April 20, 2011.
- Akindele, S. T.** (1995). Corruption: An Analytical Fuse on the Problems of its Conceptualization. *Ife PsycholoGIA* 3 (1), 84-85.
- Akinwale, A. A.** (2010). Amnesty and human capital development agenda for Niger Delta. *Journal of African Studies and Development*, 2(8), 201-207.
- Arpomuvire, M. and Egbadju O. L.** (2010). Security Contradiction: Bane of Reactions of Oil Producing Communities and the Ending Crisis in the Niger Delta Region of Nigeria. In V. Ogakoroku and L. Gilbert (eds). *Checking the Resurgence of Oil Violence in the Niger Delta Region of Nigeria*. *Http://www.icags.org/nigerdeltabrief*. Retrieved: February 20, 2011 and April 20, 2011.
- Ayobami, O.** (2011). Corruption Eradication in Nigeria: An Appraisal. *www.http://unllib.unl.edu/LPP/* Accessed, 20th April, 2011.
- Bashir, H.** (2009). Rhetorical Analysis: The Nigerian Constitution: Immunity Clauses to Remove or not. *Http://www.wordpress.com*. Accessed: April 20, 2011.
- Dike, V.** (2004). Corruption in Nigeria: A New Paradigm for Effective Control. *http://www.nigeriavillagesquare.com*. Accessed: April 20, 2011.
- Dode, R.** (2006). Official Corruption and Patriotism in Nigerian Public Service: The Nigeria Police Perspective. Paper presented at 2006 Annual National Conference of the Nigerian Psychological Association, Held in the University of Uyo, Nigeria.
- Ezenwa, E.** (2009). Political Corruption: Yaradua Wants Immunity Clause Dropped from Nigerian Constitution. *http://www.africanofMedia.com*. Accessed: April 20, 2011.
- Hazen, H. and Horner, J.** (2007). *Small Arms, Armed Violence and Insecurity in Nigeria: The Niger Delta Perspective*. Switzerland: Coprint.
- Ibrahim, J.** (2003). Corruption in Nigeria: Transition, Persistence and continuity. *The Nigerian Social Studies*, 6 (2), 3-8.
- Johnson, T.** (2010). Causes and Conditions for Corruption. *Http://www.iss.co.za/pub/monographs/no65/chapter4.html*. Accessed: April 20, 2011.
- Jibril, M.** (2011). Nigeria: Corruption, Corrosion and Correction. Lecture Delivered at the Sixth Tai Solarin National Annual Lecture held at the Bankers House, Chartered Institute of Bankers of Nigeria. *Http://www.2011vanguardmedia.com*. Accessed: April 20, 2011.
- Kumolu, C.** (2012). Nigeria's Problem is Poverty. *http://www.vanguarrrdng.com/2012/06*. Accessed: April 20, 2011.
- Mamadu, T.** (2009). *Corruption in the Leadership Structure of the Nigerian Polity*. Caliber: Jochrisam Publishers.
- Nwabueze, B.** (2007). *How Presidents Obasanjo Subverted the Rule of Law and Democracy*. Ibadan: Gold Press Limited.

- Office of the Head of Civil Service of the Federation, the Presidency, Abuja.** (2011). *http://www.ohcsf.gov.ng/policy-anticorruption.html*. Accessed: April 20th, 2011.
- Ogbodo, R.** (2009). Political Corruption. *Http://www.africanloftmedia.com*. Accessed, April 20th, 2011.
- Ogunye, J.** (2007). The Unconstitutionality of Anti- Graft Bodies. *The Guardian* October 10th, 2007.
- Okoi-Uyouyo, M.** (2008). *EFCC and the new imperialism*. Calabar: Bookman Publishers.
- Oladele, K.** (2006). Removing immunity clauses from the constitution will undermine executive Capacity. *Http://www.africanloftmedia.com*. Accessed, April 20, 2011.
- Salisu, M.** (2000). Corruption and Economic Growth in Nigeria. The Lancaster University Mangement School Working Paper Series. *http://www.lums.co.uk/publications*. Accessed, April 20, 2011.
- Tell Magazine** (2006). No. 8. February 20th, . *Http://nigeriaworld.com/feature/speech/inaugural.htm*. Retrieved: February 20, 2011
- Umoh, O., Thompson, A. and Adick, B.** (2012). Effectiveness of Amnesty Programme in the Niger Delta: Differential Perception of Substance Using and Non Substance Using Ex-militants. A paper Presented at the 10th Biennial International Conference of CRISA, held at Rockview Hotel, Abuja, 10th - 12th July, 2012.
- Waziri, F.** (2010). Corruption and Governance Challenges in Nigeria. Conference proceedings, CLEEN foundation Monograph series No 7.
- Wolfeshon, J. D.** (1999). The True Impact of Corruption. *Cross-roads*, 5(9),15-16.