

NIGERIA'S STRUGGLE WITH CORRUPTION[§]

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Introduction

The history of corruption in Nigeria is strongly rooted in the over 29 years of military rule, out of 46 years of her statehood since 1960. Successive military regimes subdued the rule of law, facilitated the wanton looting of the public treasury, decapitated public institutions and free speech and instituted a secret and opaque culture in the running of government business. The result was total insecurity, poor economic management, abuse of human rights, ethnic conflicts and capital flight. Democracy was restored in Nigeria only in May 1999, with the election of the civilian government under the leadership of president Olusegun Obasanjo.

One cardinal programme of the Obasanjo administration is the fight against corruption and waste in the public service. This, he has demonstrated by the establishment of two major anti-graft institutions, the Independent Corrupt Practices (And Other Related Offences) Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) in 2000 and 2003 respectively.

THE ANTI-CORRUPTION STRATEGY

The Government's target is zero tolerance for corruption. This, it has pursued through –

- Promulgation of laws against graft – Independent Corrupt Practices And (Other Related Offences) Commission (ICPC) Act, Economic and Financial Crimes Commission (EFCC) Act, Money Laundering (Prohibition) Act 2004
- Strengthening of anti-corruption and other economic crimes Institutions for effective law enforcement
- Prosecution and conviction of high ranking administration officials
- Tracing, seizing and confiscation of all proceeds of crime
- Institution of the Due Process Mechanism in public sector procurements
- Privatization of failing public institutions and creating an enabling environment for effective private-public partnerships
- Monthly publication of distributable revenue from the Federation Account to the different tiers of government
- Institution of transparencies in the oil and gas sector through the work of the Extractive Industries Transparency Initiative (NEITI)

Economic and Financial Crimes Commission

The EFCC which is today the arrow-head in the fight against corruption in Nigeria was established in 2003 as part of a national reform programme to address corruption and money laundering and in answer to the Financial Action Task Force (FATF) concerns about Nigeria's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) laws.

EFCC is an inter-agency Commission comprising a 22-member Board drawn from all Nigerian Law Enforcement Agencies (LEAs) and regulators. The Commission is empowered to investigate, prevent and prosecute offenders who engage in

“Money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arms deal, smuggling, human trafficking, and child labour, illegal oil bunkering, illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes, and prohibited goods”

(Section 46, EFCC Establishment Act, 2004)

The Commission is also responsible for identifying, tracing, freezing, confiscating, or seizing proceeds derived from terrorist activities. EFCC is also host to the Nigerian Financial Intelligence Unit (NFIU), vested with the responsibility of collecting suspicious transactions reports (STRs) from financial and designated non-financial institutions, analyzing and disseminating them to all relevant government agencies and other FIUs all over the world.

In addition to other law relating to economic and financial crimes, including the criminal and penal codes, EFCC is empowered to enforce all the pre-1999 anti-corruption and anti-money laundering laws. Punishment prescribed in the EFCC Establishment Act range from combination of payment of fine, forfeiture of assets and up to five years imprisonment depending on the nature and gravity of the offence. Conviction for terrorist financing and terrorist activities attracts life imprisonment.

POSITIVE RESULTS SO FAR

Since the establishment of EFCC in 2003, it has been involved in the investigation of cases ranging from high profile corruption cases, advanced fee fraud, money laundering, tax evasion, contract scams, identity theft, illegal oil bunkering, bribery, looting, and foreign exchange malpractices.

• Cleansing of the Banking Sub-sector

EFCC has contributed to the sanitization of the banking sector through investigation and prosecution of Chief Executives and other officials for Money Laundering and other frauds. Bank failures which were rampant in the past have now become a thing of the past.

• Reorganization of Critical Agencies of Government

EFCC has led the drive to clean up and reorganize key agencies and institutions of government in Nigeria. The Commission’s work has led to the change of leadership of the most critical agencies such as the Nigeria Police, the Customs and the National Drug Law enforcement Agency (NDLEA). The new leadership are driving necessary reforms of these vital agencies that were hitherto steeped in corruption.

• Prosecution and Conviction of Corrupt Top Public Officers

The Commission has successfully prosecuted and secured convictions against top government functionaries, including the former chief law enforcement officer of the nation, the Inspector-General of Police (IGP). Investigation by EFCC has caused the

removal from office and prosecution of a president of Senate, a governor, ministers, parliamentarians, chief executives of banks, etc.

- **Record Convictions for ‘419’, Money Laundering and Terrorism**

So far, 56 convictions have been recorded on corruption, money laundering, oil pipeline vandalisms and related offences. Assets well over \$5 billion have been frozen and seized from corrupt officials, their agents and cronies.

- **Recovery and Return of Proceeds of Crime**

The fight against advance fee fraud (419) and identity theft has been aggressively pursued, leading to the prosecution and conviction of kingpins including the celebrated \$242 million case involving a Brazilian bank. Much of the amount has been recovered and returned to the bank in Brazil.

The EFCC also recovered and returned the sum of \$4 million to a victim of 419 in Hong Kong and has seized and returned over \$ 500,000 to sundry US citizens. It is in the process of returning \$1.6 million (already blocked) to a victim in Florida.

- **Setting up of the FIU and Taking Action against Terrorist Financing**

The fight against money laundering, terrorism and terrorist financing has heightened with the establishment of the Nigerian Financial Intelligence Unit (NFIU) by the EFCC. This has helped in the detection of Suspicious Transactions in financial institutions.

EFCC is coordinating the implementation of the National Strategy Plan Against Money Laundering and Terrorist Financing. This has no doubt impressed the Financial Action Task Force (FATF) of the G8 whose review team only recently concluded an on-site visitation to the country with a view to assessing her level of compliance in order to have her de-listed from its list of Non-Cooperating Countries and Territories (NCCTs). Nigeria is fully in compliance with the UN Convention against corruption and UN Resolutions on terrorism and terrorist financing particularly Resolution 1247. EFCC maintains a database of terrorist groups, individuals, non governmental organizations(NGOs), etc, and she constantly keeps a weather look on them.

- **Setting up Machinery for Monitoring Activities in the Oil Industry and Prevention of Illegal Bunkering**

EFCC is vigorously addressing the nagging problem of illegal oil bunkering and pipeline vandalism in the Niger Delta Region. Over 10 convictions on pipeline vandalism have been recorded, 25 trailers (instrumentalities of crime) seized and confiscated and accounts of beneficiaries blocked.

- **Partnership with Microsoft against Internet Scam and Identity Theft**

EFCC has deployed technology to combat cyber crimes and is presently working in partnership with Microsoft to find appropriate software to definitively address the problem.

- **Capacity Building for Law Enforcement and Judicial Officials**

Capacity building is a key in the fight against graft. EFCC has responded by establishing a state-of-the-art Training and Research Institute in Karu, Abuja, for the training of its officials. EFCC has also assisted through donor agencies with the training

of judges handling cases of corruption, money laundering and other financial crimes. This has helped to reduce the trial cycle-time.

RELATIONSHIP WITH LAW ENFORCEMENT AUTHORITIES (LEAs)

EFCC has excellent working relationship with major Law Enforcement Agencies all over the world. These include the INTERPOL, the UK Metropolitan Police, FBI, Canadian Mounted Police, the Scorpions of South Africa, etc.

The relationship with the FBI has been particularly special. This has manifested in the following:

- Joint Controlled delivery operations and investigations with officers of the US Postal Inspections Service

- Joint Investigations and collaboration with the Resident Regional Agent of the United States Secret Service, Pretoria, South Africa, especially in cases of document and currency counterfeiting

OTHER ANTI-CORRUPTION INITIATIVES OF THE NIGERIAN GOVERNMENT

The work of the Nigeria Extractive Industries Initiative (NEITI) has opened up the oil and gas sector through its landmark independent audit conducted by Hart Group. The audit had a three-pronged component – Physical, Financial and process. The result of the audit revealed discrepancies in physical hydrocarbon balances and declared volumes for royalty purposes, physical hydrocarbon balances and the declared volumes for Petroleum Profit Tax (PPT) purposes, deductions claimed by companies for PPT purposes against the expenditures in their audited accounts and differences between the amounts reported by the Companies as paid and the amounts reported by the CBN as received.

Nigeria is listed as one of the 21 most improved nations in 2005. More importantly, the 2005 World Economic Forum and World Bank Governance Surveys by Dr. Danny Kaufman indicated significant improvements on Corruption, Public Procurement, Public Finances, Taxation, etc.

The Rule of law has been substantially restored. The restoration of the Rule of law and the fight against graft has manifested in the improved rating by Transparency International (TI) and Direct Foreign Investment (DFI) inflows into the country. This is also manifest in the high support received from the international donor communities including the World Bank, the European Union and the Commonwealth Secretariat. The European Union through the UNODC is today, implementing perhaps, the biggest donor project in Nigeria involving \$32 million. This project aims to improve EFCC capacity in investigating and prosecuting corruption and other economic crimes.

CHALLENGES OF FIGHTING CORRUPTION IN NIGERIA

There exist serious challenges to the continued successful prosecution of the war on corruption in Nigeria. These include:

Internal

- Relatively slow Judicial system

The technological complexities in fighting economic crimes in the cyber space

Lack of capacity and investigation tools such as analyses tools, financial transactions software, etc

External

The availability of safe havens for corrupt Nigerian officials to keep their loot abroad

Lack of cooperation from some countries

REQUEST TO THE US AUTHORITIES

- The US and members of the G8 must be in the forefront of building global coalition against corruption. Make transparency and accountability and the fight against corruption the primary basis for relating with any government
- The US must speak out against countries that provide safe havens for proceeds of corruption from Nigeria and other developing countries.
- The government of the United States should support and empower local agencies on the ground, through capacity building and technical assistance
- The US Authorities should also consider the deployment of additional FBI Agents at the US Embassy in Nigeria and strengthen collaborative initiatives between agencies fighting corruption in Nigeria and all law enforcement agencies and the Justice Department in the US. This will expedite requests for assistance made to US Authorities on economic crimes. The huge population of Nigeria (150 million) and the relatively high rate of white collar crimes in Nigeria justify this request.

CONCLUSION

I want to conclude by drawing attention to the grievous harm that corruption has done to Nigeria and, indeed, Africa over the years. Corruption is responsible for perpetual collapse of infrastructure and institutions; it is the cause of the endemic poverty in Africa; it is behind the underdevelopment and cyclical failure of democracy to take root in Africa. Corruption is worse than terrorism. Public officials who are corrupt should receive worse treatment than that reserved for terrorists.

It is high time we refocus and give issue of corruption the attention they rightly deserve. Making corruption history is the surest way of making all the problems of Nigeria history.

Thank you for your time

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