

**Fighting Corruption in Nigeria:
How Efficient National Integrity Systems Can Enhance the
Effectiveness of Anticorruption Agencies**

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Executive Summary

The usual response for most anticorruption reform minded governments whether or not they sincerely wish to fight corruption has been to set up new anticorruption agencies with powers going up a notch from what was on the ground before their tenure. This propensity to assume that new anticorruption institutions is so important to the global fight against corruption is usually as a result of prompting from international development agencies and multilateral institutions like the World Bank (WB), the International Monetary Fund (IMF) and the Financial Action Task Force on Money Laundering (FATF).

In this Policy Paper, it is argue that rather than the over fixation on anticorruption agencies that there is need to consider building efficient national integrity systems first or alongside the agencies. The argument is predicated on Nigeria's experiences with the establishment of the Independent Corrupt Practices Commission (ICPC) in 2000 and the Economic and Financial Crimes Commission (EFCC) in 2003/2004. While both especially the EFCC, impacted on the overall exposure of corruption, they easily lost momentum to sustain the fight because the national integrity systems remain weak and unable to provide the needed push for the effectiveness of the agencies.

It concludes that the Nigerian state has weak integrity systems that cannot sustain the work of the anticorruption agencies and recommends practical policy solutions that include assuring the independence of the anticorruption agencies, the institutionalisation of a freedom of information regime, the firming up of disincentives for corruption by multinational companies and their local collaborators and, the assurance of rule of law in the work of the agencies.

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List of Abbreviations

BBC	British Broadcasting Corporation
CFRN	Constitution of the Federal Republic of Nigeria
CPI	Corruption Perception Index
EFCC	Economic and Financial Crimes Commission
FATF	Financial Action Task Force on Money Laundering
GII	Global Integrity Index
GIR	Global Integrity Report
ICPC	Independent Corrupt Practices Commission
MNC	Multi-National Companies
NIS	National Integrity Systems
OECD	Organisation for Economic Corporation and Development
TI	Transparency International
UNDP	United Nations Development Programme
WB	World Bank

Corruption is one of the greatest inhibiting forces to equitable development and to the combating of poverty. For many, it constitutes the difference between life and death.
James D. Wolfensohn (2002)

1.0 Introduction

Since 1996 when the World Bank started focusing on corruption as a major impediment to development, the conventional wisdom amongst development analysts seems to be that once you get the anticorruption mantra right every other thing would fall into place. It is this near religious belief in the efficacy of anti-corruption institutions as the sole cure of the development challenges facing countries, especially developing countries that have led to the proliferation of the establishment of anticorruption institutions in multiple proportions across countries of the development south. While these institutions seem to multiply, corruption, the menace for which they were set up assumes an increasingly frightening dimension. Thus while countries may not be in short supply of anticorruption legislations and institutions, they remain very corrupt and unable to overcome the unenviable consequences of being a corrupt nation.

This state of affairs has not in any way put a halt to the number of anticorruption agencies that countries are setting with a view to curbing corruption. So what James Wolfensohn referred to as the 'cancer of corruption' and that 'it is a major barrier to sound and equitable development' in 1999 (World Bank, 2000) has even become more cancerous and antidevelopment despite the various steps taken to reverse it.

The challenge for policy analysts therefore is to examine the anti-corruption mantra within specific country contexts with a view to understanding the gap, which currently exists in the

efforts aimed at combating corruption as it seems to put countries in bad light, even though they wish that it were otherwise. How to do this is as complex as the very notion that corruption can be combated as there is a complex web of issues. There is therefore the need to look beyond the empty framework of setting up anticorruption institutions, to consider in each the overall or particular integrity systems in each country with a view to determining the 'effectiveness of national anti-corruption efforts' (TI, 2008).

This paper would use the framework of the Transparency International National Integrity Systems (NIS) to examine the missing gaps in the effectiveness of Nigeria anti-corruption efforts since 1999 when it transited from long years of military rule to civilian rule, to 2008.

This approach is premised on the fact that:

Corruption has to be dealt with by a combination of forces within a country. It can be assisted from outside. . . . There must be partnerships; there must be coalitions for change; and so, we felt that, as an institution the best we could do was to try and assist in the building of the coalitions and in the forging of that interest in the issue of corruption and inequity, and get it out there. (Wolfensohn, 1996 cited in World Bank, 2000: 6)

For to fight corruption without reference to the quality of the integrity system is like trying put off an inferno by spraying it with combustive substances. It can only get worse! The focus on Nigeria aside from the point of the writer's personal knowledge of the socio-political environment is premised on the fact that corruption is many cases features prominently in any discussion concerning Nigeria. This fact is not strange as Nigeria continues to feature at the bottom of most corruption measurement indexes. Nigeria was the second most corrupt country, after Bangladesh in 2001, 2002, 2003 and 2004 (TI,

2001, TI, 2002, TI, 2003, TI 2004, TI, 2008)¹ . Many saw Nigeria's ranking in the TI index as a true reflection of the fact that efforts at combating corruption was failing or has failed. Despite the efforts made by the Country within the period under review there is still doubt about the efficiency of its many anti-corruption agencies established post 1999 especially, the Economic and Financial Crimes Commission (EFCC Act, 2004) and the Independent Corrupt Practices Commission (ICPC Act, 2000). The number does not in anyway translate to efficiency as the increase in the number of institutions-some of which has duties overlap like the ICPC and the EFCC cannot be said to have achieved much.² While the ICPC was established as a general response to the perceived corruption incidence of general corruption in the system, the EFCC was established:

‘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’³ (Ribadu, 2006:1)

The above presents an overview of the unending struggle that Nigeria has with its anti-corruption processes. It is with the above introductory clarifications that am laying the foundation for the remainder of this paper.

¹ The 2001 report covered 91 Countries. Nigeria was number 90, which translates to being the second most corrupt country in the world for the year. The 2002 report was with respect to 102 Countries with Nigeria in the 101 position. The 2003 report, which surveyed 133 Countries, saw Nigeria being the second most corrupt country again, with its 132nd placing on the table. Same for 2004 with its placing as 144 out of 145 on the table

² Some of the other interventions made by Nigeria post -1999 include the Money Laundering (Prohibition) Act, 2004, Public Procurement Act, 2007, Fiscal Responsibility Act, 2007. All of which created agencies and institutions that had some role to play in combating corruption but most of which cannot be said to be as effective as expected

³ Emphasis is mine

1. 2 Problem Description and Statement

On the face value fighting corruption can easily be equated with the existence of laws and anticorruption institutions. But that can be very deceptive as institutions and-laws alone do not mean efficiency. There are other prerequisites, and I say this bearing in mind the experience of Nigeria with its plethora of anti-corruptions laws and institutions that does not seem to have made any significant head way in its anti-corruption programme.

Soon after the transition to civilian rule in 1999 Nigeria established two main anticorruption institutions, the Independent Corrupt Practices Commission, ICPC and the Economic and Financial Crimes Commission, EFCC mostly in response to international pressures for a more concerted effort in its war against corruption. While the relevance and contributions of the two agencies may not be doubted, it is very doubtful whether their impact has had any controlling effect on corruption in Nigeria as reports of corruption in most government Ministries, Departments and Agencies is always a major part of the news, just as was the case before they were established. To contextualise the discourse, I will proceed to discuss some of the corruption cases that Nigeria has had to contend with from 1999 to 2008.

It is estimated that Nigeria losses about US\$600 annually from money laundering and terrorism financing (Elumelu 2007), and on the whole made and dissipated about US\$500 from the sale of crude oil in 50 years even as more than 70 percent of Nigerians still live below poverty line-surviving on less than US\$1 a day (Lamorde, 2008), and if I may add with citizens complaining of the worsening state of national infrastructure in most sectors of the national economy and its negative effects on economic and social activities (Onyeukwu, 2009). Specifically between 1999 and 2008 many mind boggling revelations of corruption

were made, some were investigated and prosecuted while many were not investigated. Shortly after the ICPC was inaugurated in September 2000, some members of the National Assembly accused President Obasanjo of bribing them to impeach the then Speaker of the House, Ghali Na'Abba. This accusation was very dramatic as the alleged bribe money was displayed before the house and shown on national television.⁴ In December 2003 President Obasanjo fired the then Minister Labour Minister, Hussaini Zannuwa Akwanga after which he and other were charged with obtaining about 128 million naira (US\$ bribe money from Sagem, which won a contract for the national identification card scheme (Global Integrity, 2006).

While the above presents a semblance of commitment to the war against corruption, they also created their own controversies. For instance while then Minister of Housing and Urban Development was said to have been forced to resign as a result of corruption, she was not prosecuted and still vehemently claims innocence of being corrupt. In her words:

As far as I am concerned, up till this very moment, nobody has told me what I did wrong. I just believe it is all politics. Because so many things were going wrong, and they just believed somebody had done this and that; and so, let try somebody else. At the end of the day I left the government house, I left the cabinet; and I am back to my chambers, I am back to my house (Osomo, 2006)

The accusation against her was that she corruptly sold government houses under the government's privatisation programme to senior serving government officials at below market prices and without recourse to due process. Most of those named as being beneficiaries denied ever applying for the houses allocated to them, even in cases where

⁴ The President of the Upper Chamber, the Senate was impeached in August 2000, following sundry accusations of corruption and misappropriation of funds. His subsequent indictment was dropped after his resignation in October of same year

they were said to have paid payments. Except for the Ministers forced resignation, no further action was taken in respect of the transaction (Osomo, 2006). In 2005 amid protestations the then Minister of education Fabian Osuji was sacked for offering, while the then Senate President, Adolphous Wabara resigned for demanding and receiving about US\$400, 000 bribe in order to facilitate the passage of the Ministry's budget without reduction (Paper Chase, 2005, VOA, 2005). Both have been facing prosecution since then.

As the federal level corruption cases were being exposed so also did similar cases at the state level come to light. For instance, in 2004 the then Attorney General of the Federation and Minister for Justice wrote the speaker of the Plateau State House of Assembly detailing allegations of corruption and money laundering against the state Governor, Joshua Dariye. In it he mentioned that the London Metropolitan Police while of a search discovered a cash sum of 11, 560. 00 (Eleven Thousand Five Hundred and Sixty Pound) in a brief case, which was traced to the Governor. In addition they also discovered a bank statement which showed that the Governor had the sum of 918, 029.00 () which was transferred into his Barclays Bank account (one-off) on the 27th of August 2002, among several other mind boggling, similar revelations in the United Kingdom and Nigeria, directly and through the use of proxies to avoid the law (Olujimi, 2004). As at January 2006, Dariye was said to have stolen about US\$ 1 billion, which were deposited in accounts worldwide (Lamorde, 2006). However only about US\$ 563, 800 worth of property and US\$ 8 billion worth of money in Bank account recovery has so far been made (Asset Recovery, 2007).

From the oil rich delta region state of Bayelsa a similar story of monumental corruption erupted. The then state Governor was also arrested by the London Metropolitan Police for corruption and money laundry. He was said to have acquired properties in London and Cape Town valued at about US\$11.2 million while about US\$ 1.2 million cash was found in his bedroom in his London home. In Nigeria assets worth about US\$240 million was traced and recovered in addition to bank deposits in Cyprus, Denmark, USA and Bahamas (Ribadu, 2009). In 2007 he pleaded guilty to sundry charges of money laundry and corruption, forfeited much of what was found and sentenced to 2 years imprisonment from the day of his arrest in 2005. He left for home hours after the court judgement was pronounced (Assets Recovery, 2007b).

Following the election of new Governors in the states in 2007, most the outgoing Governors who then lost their constitutionally guaranteed immunity were indicted for corrupt practices perpetuated while in office. Orji Uzor Kalu of Abia State was charged with 100 count of corruption and money laundering involving about US\$19, 285, 714, Samiu Turaki was charged with using his accomplices to launder about US\$2.6 billion in local currency and the sum of US\$20 million in foreign currency and on and on. In fact, 31 of the 36 state Governors were said to be corrupt (Bakre, 2008).

The settling of the agencies also led to the prosecution of several individuals for advanced fee fraud. This include Emmanuel Nwude, and Amaka Anajemba who were convicted for the biggest advance fee fraud in the world worth US\$ 242 million, a members of the House of Representatives, Maurice Ibekwe for US\$ 330, 000 and DM 75, 000, and Fred Ajudua

who was charged and convicted for obtaining US\$ 1, 698, 133 million fraudulently from a German. (Next, 2009).

The above cases go to show how problematic corruption has been for Nigeria to deal with and even more so since 2007. With few stories of success and, many of publicity without more the situation is gradually going on full reversal. Since after the 2007 elections all the cases began by the EFCC are being prosecuted without the usual urgency associated with the institution. This followed the apparent declining political will and other systemic failures in the national integrity system (Ribadu, 2009b). So the challenge is to determine what the missing links are and how best to tackle them so as to assure a more effective anticorruption regime in Nigeria, especially given the need for more prudent management of resources in the present global economic crisis and its attendant impact on the economies of most developing countries.

1.3 Why National Integrity System

The fulcrum of this policy paper is to examine the importance of a nation's national integrity system in the scheme of its anticorruption programme. This is important given that there is a preponderance of focus on the establishment of anticorruption institutions without equal attention being paid to the integrity systems within which those institutions would function. Thus while the World Bank, the International Monetary Fund and other multinational institutions are insisting that developing countries ensure the establishment of anticorruption bodies, and even use it as precondition for accessing some benefits, they

worry not about the conditions under which the bodies would function. As the United Nations Economic Commission for Africa submitted:

...anti-corruption institutions in Africa are often established to appease international actors, as most African countries are highly aid-dependent and anti-corruption requirements have been central to aid conditionalities, as critics perceive a wide gap between governments' anti-corruption rhetoric and the impunity enjoyed by public officials. (UNECA, 2009).

In the case of Nigeria it can be further argued that it was under pressure to be fully readmitted into the international comity of nations as it was regarded as a pariah state following many years of military dictatorship. It enjoyed little trading options at the time as it was regarded as non-cooperative in the fight against money laundering and terrorist financing. It was only able to get a reprieve from the Financial Action Task Force (FATF) following the establishment of the Economic and Financial Crimes Commission (EFCC) and the Financial Intelligence Unit (FIU) within the agency (FATF, 2006). Thus it was and still is all about what agencies you have rather than the necessary condition for the success or failure of the agencies. It is therefore important to look at how far and effective the anticorruption regime in Nigeria has been following the establishment of the agencies without regard to the status of its national integrity systems.

1.4 Available Study on National Integrity Systems in Nigeria

In 2004, Transparency International Commissioned a Country Study Report of Nigeria's national Integrity systems (TI, 2004b). The report was prepared midway into the return to Civilian rule in 1999 and just before the Economic and Financial Crimes Commission which is seen as the flagship of anticorruption efforts in Nigeria was established. It therefore has limited appraisal of the situation up till then and no more. After the report several new

developments has taken place within the anticorruption regime which it did not capture like the impact of the EFCC in the absence a viable national integrity system. Thus paper would in addition to providing a more holistic picture of the fight against corruption in Nigeria from 1999 to 2008 also be able to answer the question whether the EFCC with all the acclamations that it received could have been more effective in an environment with a better national integrity system.

1.5 Paper Objective and Policy Questions

To primary objective of this paper is to identify and analyse the limitations posed to the effectiveness of Nigeria's anticorruption agencies by an inefficient national integrity system. Thus the main policy question is: To what extent is the effectiveness of the anticorruption agencies in Nigeria undermined by an inefficient national integrity system? To achieve the above objective, answer the main policy question and make necessary recommendations, the following sub-questions would also arises and would be answered:

- a. What is the national integrity system and what elements of it are more germane in the case of Nigeria
- b. How has Nigeria's anticorruption agencies been affected by the poor state of its national integrity system

1.6 Methodology

To achieve the task set out in this policy paper, the methodology of choice is the analysis of secondary literature and materials. Literature and materials to be analysed are based primarily of the subject matter of inquiry and the case study of Nigeria. I also refer to the

views of experts on the subject matter and case study in international journals, books, articles, newspapers, and internet that are available and accessible.

It is important to point out that corruption is very difficult to research and investigate, as its incidence is mostly shrouded in secrecy and only a few are revealed. Even in cases where some become public knowledge they may be highly exaggerated or under reported as facts are difficult to confirm except in cases that go before the courts which are very view in comparative terms.

1.7 Audience

The target audience for this policy paper is two-fold. The first group that it targets is the Executive and Legislative arms of government in Nigeria. Secondly, it would contribute to the body of empirical and policy literature available to researchers and development policy analysts.

1.8 Structure

The remainder of this paper would be structured as follows:

Chapter 2 will examine the framework of analysis using mostly the Transparency International's National Integrity Systems framework and as entry point. It will discuss the general context for the Greek Temple model of Transparency International, and consider the contribution and refinement offered by the 'Birds Nest' model while also touching upon the Global Integrity Index with a view to laying the framework for evaluating the Nigerian environment.

Chapter 3 highlights the high and low points of Nigeria's chequered anticorruption journey, and shows that despite the powers of the agencies and attempts at effectiveness they failed to make and sustain the needed momentum for fighting corruption in Nigeria because of the inefficient National Integrity Systems environment in which they operated. It considers the socio political and, and legal framework for anticorruption in Nigeria against the background of overbearing political culture and interference and lays the foundation for the final chapter, and finally,

Chapter 4 will be the conclusion and policy recommendation section of the paper. It will bearing the findings of the preceding chapters sum up the paper and then proceed to make practical policy recommendations for assuring a more effective anticorruption agencies in Nigeria.

2.0 Chapter Two-Understanding National Integrity System

If individuals should act with integrity, and public office needs integrity, then managerial leadership and institutional design should aim to sustain it. ... No easy cost-benefit analysis justifies this central role of integrity. But I believe integrity anchors personal moral life, is true to the role of office in democracy, and results in better governance and higher quality of judgment and political life (Dobel 1999: 21).

2.1 Introduction

To aid a contextual appreciation of the subject matter of this policy paper, it would do to examine the subject of national integrity systems with a view to develop a shared understanding of the limits of its use. There is no dispute about the importance of integrity in the affairs of individuals, organizations or nation states. There is also a firm consensus that 'modern governments require accountability' which is important to ensure the promotion of common over personal good. (Pope, 1996, 2000). It was the Source books which first muted the idea of integrity systems as being very germane to long term success of anticorruption institutions rather than the prevailing tendency for nations to borrow and establish a certain type or form of anti corruption agency (ies). As some authors succinctly put it:

Previously, the search for higher standards – or at least appearances – of integrity saw many nations vigorously borrow and adapt institutions from one another, in some cases establishing one single new 'anti-corruption law', or one single new 'anti-corruption agency', as a simple response to various drivers for change. (Brown, Head and Connors, 2008:5)

However, there is a growing recognition that no single institution or law is capable of providing the right environment for overcoming the challenges of corruption but rather that what is needed is a body of 'agencies, laws, practices and ethical codes' and these has been variously represented as 'ethics regime' (Sampford, 1993), 'ethics

infrastructure' (OECD, 1998), 'national integrity system' (Pope, 1996, 2000) (Brown, Sampford and Shacklock, 2005). The National integrity system is thus far the mostly widely used of them all especially in the context of the approach that I would adopt for this paper.

2.1.1 Definition

The Transparency International Source Book (Pope, 1996, 2000) provides a straight and easily understandable explanation of the national integrity system regime. It sees it as a system that assures the evenly dispersal of power away from a possibility:

In which an autocratic ruling elite gives orders which are followed, to a greater or lesser degree, by those down the line. The approach is to move instead to a system of 'horizontal accountability'; one in which power is dispersed, where none has a monopoly and where each is separately accountable (2000: Chapter 4: 3)

It is no doubt that it is this system of horizontal accountability which would ultimately ensure that those whose responsibility it is to act on behalf of the society or a segment of the society does so creditably. That power is used for and in the interest of the whole rather than a few who in most cases, has direct control or access over resources and institutions. Thus the Author sees horizontal accountability as providing a virtuous circle that enables the various power points not only to perform their assigned tasks but also serve as control over how others does theirs too. The Source Book goes ahead to set out the overall goals of integrity system as:

1. Public Services that are both efficient and effective, and which contribute to sustainable development;
2. Government functioning under law, with citizens protected from arbitrariness (including abuses of human rights); and

3. Development strategies which yield benefits to the nation as a whole, including its poorest and most vulnerable members, and not just to well-placed elites

In other words 'it is a set of components (objectives), and elements (actions to be taken) to be delivered by or through key institutions, sectors or specific activities. Collectively the NIS is proposed as a system which, when in existence and functioning, is concerned with combating corruption as part of a larger struggle against official abuse, malfeasance and misappropriation in all its forms, and has in turn the overall goal of creating more effective, fair and efficient government. In short the NIS is about promoting good governance. The 'aim is not complete rectitude or a one-time cure or remedy, but an increase in the honest or integrity of government as a whole' (Pope, 1997: 5-6 in Doig, A and McIvor, S., 2002).

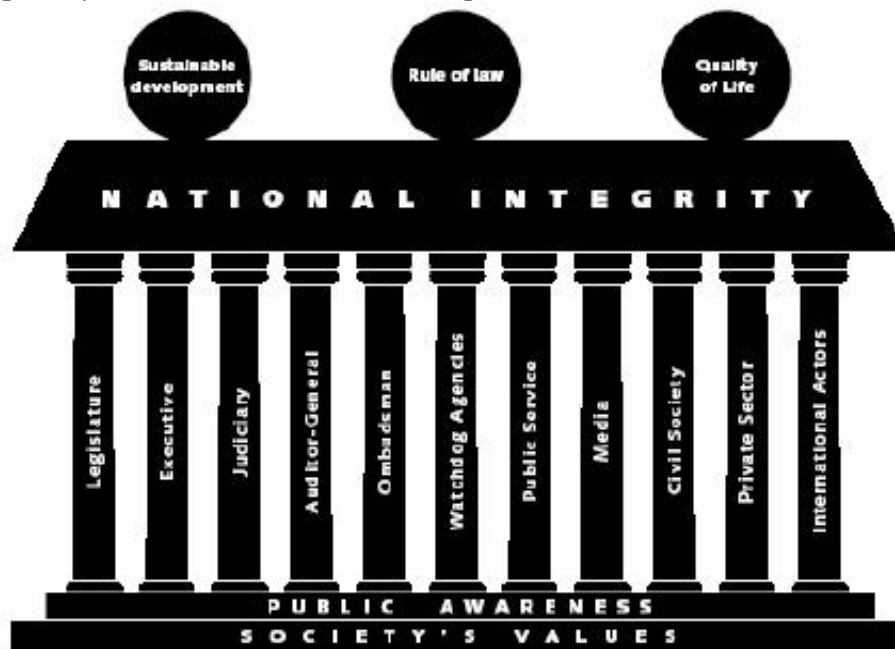
2.2 Elements of National Integrity System

The national integrity systems have certain elements that serve as guide for its application. According to Jeremy Pope (Pope, 1996, 2000):

The pillars are independent but maybe of differing strengths. If one pillar weakens, an increased load is thrown onto one or more of the others. If several pillars weaken, their load will ultimately tilt...crash to the ground and the whole edifice collapse into chaos (Pope, 2000: 36 in TI-Australia, 2005: 8)

As shown in (Figure 1), below the pillars of integrity systems consists of the legislature, executive, judiciary, Auditor-General, Ombudsman, watchdog agencies, public service, media, civil society private sector and international actors. They however, need to be rooted in society's values and public awareness, and ultimately provide sustainable development, rule of law and (good) quality of life.

1Figure 1: Transparency International's NIS Greek Temple Model



Source:(Pope, 2000 in TI-Australia, 2005: 8)

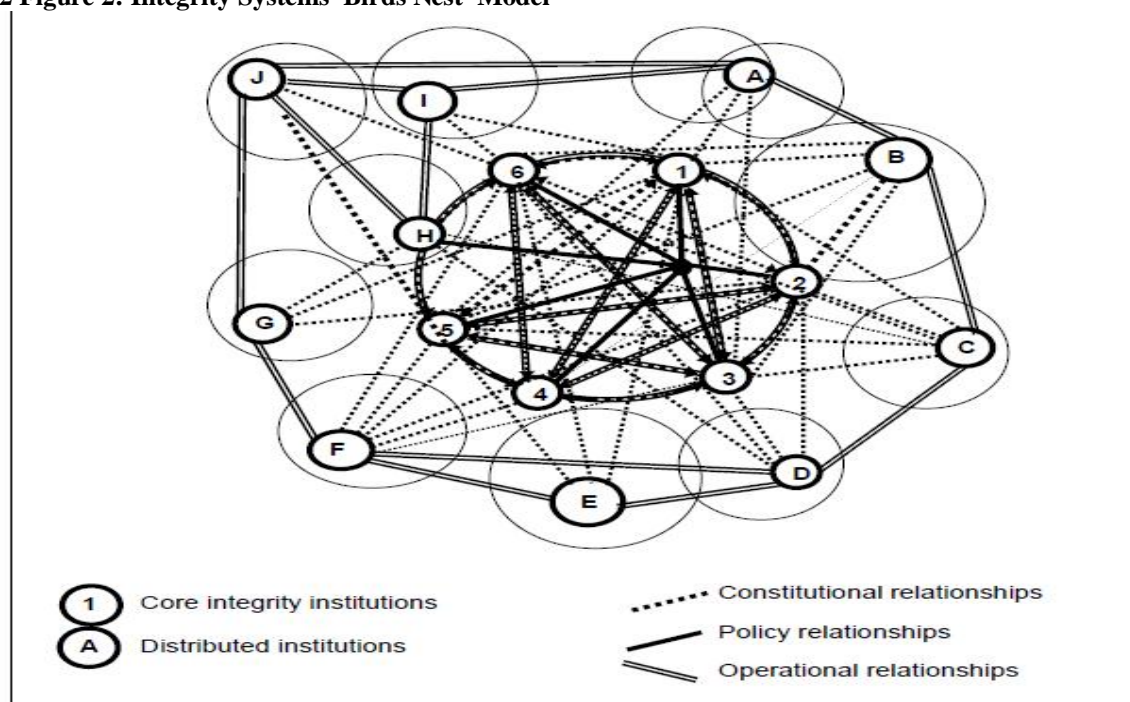
The Greek temple metaphor of Transparency International has some limitations, which include the fact that:

- Temples are built to a specified design (generally of a single architect) and are built over a relatively limited time frame, whereas integrity systems tend to grow over time with institutions created by different 'builders'.
- The pillars have to be of equal height whereas integrity institutions are of different strengths and sizes (which would mean that the lintel of 'national integrity' could very rarely be horizontal)
- Pillars can be rigid and strong, whereas integrity institutions are often relatively weak and flexible. The strength of an integrity system is based on something that is not part of the temple image-the cross-bracing that gives the mutual support that the institutions provide each other (Brown, Sampford, and Shacklock (2005: 111)

While the above shortcomings can be said to be valid they do not merit being the basis for the abandonment of the Greek temple metaphor but Sampford (2005) introduced the 'bird's nest' metaphor. The idea of the Birds nest is that its component parts even though weak but on the whole it still finds strength from the collective for the purpose of

protecting weak (fragile) egg. It provides the ideal picture of real birds nest and integrity in the metaphorical nest (Brown, Sampford and Shacklock, 2005) and graphically represented in Figure 2 below.

2 Figure 2: Integrity Systems 'Birds Nest' Model



Source: (Sampford et al, 2005: 108 in TI-Australia, 2005:17)

The pillars or birds nest as the case may be are complemented by core rules and practices as illustrated hereunder:

Institutional Pillar

Executive
Legislature/Parliament
Public Account Committee (of Legislature)
Auditor-General
Public Service
Judiciary
Media
Civil Society

Corresponding Rules/Practices

Conflict of interest rules
Fair elections
Power to question senior official
Public Reporting
Public Service Ethics
Independence
Access to Information
Freedom of Speech

Ombudsman
Anticorruption/watchdog agencies
Private Sector
International Community
(TI Australia, 2005)

Records management
Enforceable and enforced laws
Effective Mutual Legal/Judicial Assistance

There is however no exclusivity of corresponding core values and practices to particular institutional pillars as there is a great deal of overlap. This means that every integrity system needs to identify where its strengths and weaknesses lie systematically (Pope, 2000)

While Greek temple and Birds nest metaphor represent and explain the main elements of the NIS, it is good to point out that interpretation of individual country's integrity systems remain fluid in terms of the level of importance attached to each of the pillars of the temple or strands of the birds nest as the case maybe. This is important as in the following sections and chapter; I will narrow to discussing aspects that best describes the Nigerian system especially within the context of this paper.

2.3 Assessing National Integrity Systems

There is an almost an emerging (almost crystallized) body of literature and tools for assessing integrity systems. The tools has some common features and differences reflecting the peculiar focus of the various organizations and interests involved in its development as illustrated in Table 1 below. They are Transparency International's National Integrity Systems; OECD's Anticorruption Mechanisms and ethics infrastructure, the Global Integrity Index of Centre for Public Integrity and the Governance Matters Index of the World Bank.

3 Table 1: Common Elements of Western Integrity and Governance Assessments 1

National Integrity Systems	OECD Anti-Corruption Mechanisms	OECD Ethics Infrastructure	Public Integrity Index	Governance Matters
Transparency International	OECD, Paris		Centre for Public Integrity (US)	World Bank
Pope, 1996, 2000; Doig and McIvor 2003; Larmour & Barcham, 2004	OECD 1996	OECD 1999, 2000	Camerer 2004	Kaufmann 2003

Source: TI-Australia (2005: 3)

Thus in its assessment of the Australian Integrity System, Transparency International-Australia approached the task by deriving elements for assessment from the five tools here above mentioned (Table 2).

It is worth pointing out that the criterion set out by the Australian Chapter of Transparency International does not include any consideration of the private sector and international community. While this may not be an issue in such an environment-well well developed institutions that meet with international best practices, it might be of significant impact in some other countries-especially developing countries that has challenging issues with institutions and relationship between the government and the people. This would even be more in cases where a country relies on international donor funding to provide essential services or supplement what little it can provide from its own resources, as donors sometimes wield enormous influence in in-country development programmes.

4 Table 2: Common Elements of Western Countries Integrity and Governance Assessments 2

Legislature	Oversight by Legislature	Political Will	Electoral and Political Processes	Political Stability
Executive			Branches of Government	Rule of Law
Judiciary	Specialised Bodies to prosecute Corruption	Effective Legal Framework		
Auditor-General	Supreme Financial Audit Authority	Efficient Accountability Mechanisms	Oversight and Regulatory Mechanisms	
Ombudsman	Ombudsman		Ethics Coordinating Body	Administration and Civil Service
	Anticorruption Regulation	Control of Corruption		
Watch Dog Agencies	Corruption Investigation Bodies		Regulatory quality	
	Human Resource Mgt procedures			
Public Service	Financial Mgt Controls			
	Organisational Mgt Controls			
Media				
Civil Society	Guidance & Training for public officials	Active Civil Society	Civil Society, Public Information and Media	Voice and Accountability
	Transparency Mechanisms			

Source: TI-Australia (2005: 3)

2.4 Integrity Systems in Nigeria

One can easily be tempted to adopt a wholesale analysis of the national integrity system in Nigeria, given its very weak institutions and poor management of national

resources. But doing so would lead to some degree of confusion as to where the problem really lies.

So to further narrow on the pillar(s) or strand of integrity that should be more relevant in the case of Nigeria, I will use the out come of recent reports of the Global Integrity Index to illustrate a fair understanding of where Nigeria can be said to be most weak- especially as regards its anticorruption programme, which has gone from seasons of global acclamation to that of global condemnation within a very short time frame. As supported by the Independent Evaluation Group ‘one size does not fit all.

2.5 Global Integrity Index⁵

In 2004 Nigeria was ranked ‘weak’ overall, coming 14th out of 25 countries ranked for that year. While ranking ‘moderate’ in the anticorruption mechanisms and rule of law category, it was ‘weak’ in the civil society, public information and media category and branches of government category too (Public Integrity Report, 2004). In the 2006 Global Integrity Report, Nigeria received a ‘moderate ranking overall. However, a closer look at its scores for particular categories shows that it scored ‘very weak’ with respect to civil society and public information and media; and ‘strong’ with respect to anticorruption and rule of law but ‘moderate’ in enforcement. Further, while it scored ‘strong’ with regards to judicial accountability, the same was not to be with respect to Executive and Legislative Accountability where it scored ‘weak’ on each (Global Integrity Report, 2006).

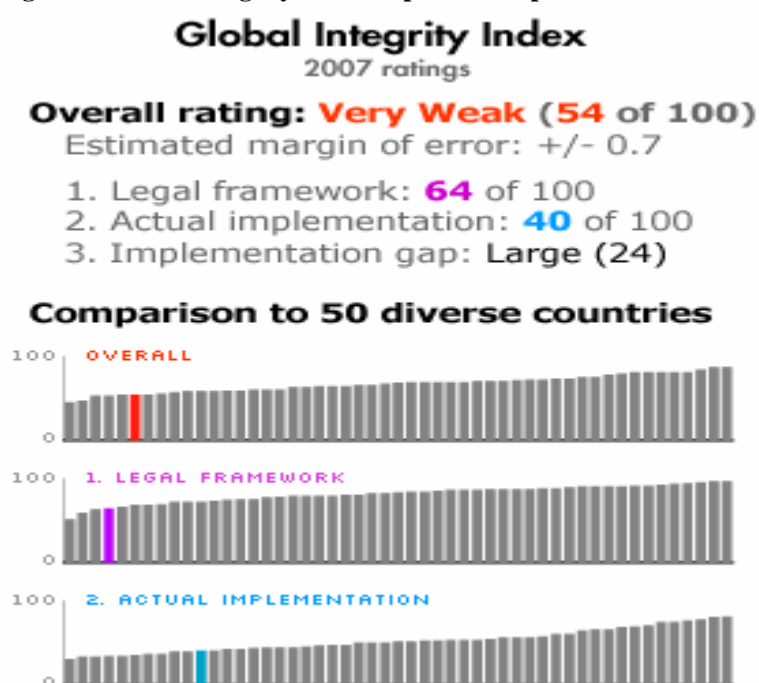
The Global Integrity index assigns ratings using more than 300 locally-researched and peer-reviewed integrity indicators as source data (Global Integrity website: <http://report.globalintegrity.org/Nigeria/2007/>)

In 2007, the Global integrity Report stated in its highlight that:

Following a violent and contested April 2007 election, Nigeria's performance in government and anticorruption has dropped significantly from a 2006 assessment. Government accountability (executive, legislature, judicial) and the civil service are rated very weak... (Global Integrity Report, 2007)

It went on to give the country an overall rating of 'very weak' and all categories except anticorruption and rule of law, which was ranked 'moderated'. In comparison with 50 countries ranked that year, the result was equally dismal as figure 3 illustrates.

5 Figure 3: Global Integrity Index Report's Comparison of 50 Assessed Countries- Nigeria



Source: Global Integrity Report, Nigeria, (2007)

In 2008, Nigeria returned an overall rating of 'weak'. With regards to civil society, public information and media it scored 'very weak', while still scoring 'strong' with respect to anticorruption and rule of law; and even though the overall government accountability category was weak it was worse with respect to Executive and Legislative

Accountability where it scored 'very weak' on each account, just as it scored 'weak' in the judicial accountability sub category. The 2008 report highlighted that:

Nigeria continues to suffer from poor accountability across all branches of government and the civil service. While citizen's right to access information is embedded in the regulations of some specific agencies, a general freedom of information act has been sitting in the Nigerian Legislature since 1999 (Global Integrity Report 2008).

This goes to show that in comparative terms Nigeria cannot be said have a strong integrity systems overall even though consistently in ranked above average in terms of institutions (agencies) on the other hand it also consistently ranked very low in terms of implementation, and support institutions like the Executive, Legislature and Public Service. The laws and anticorruption agencies need those other institutions to be effective but a situation where those equally important pillars are weak and work against them (law and agencies) then the situation cannot be positive,

2.6 Conclusion

From the reports of Transparency International and the Global Integrity Report it can be comfortably argued that anticorruption efforts in Nigeria would better be served by focusing on the underlying factors of malfeasance for example by building the rule of law, providing adequate and unhindered access to public information for the media and civil society, assuring the independence of the watchdog agencies – especially the anticorruption agencies and enhancing the effectiveness of international corporations in

anticorruption matters. As the International Evaluation Group of the World Bank noted in its 2008 report:

Where corruption is high and the quality of governance is correspondingly low, it makes more sense to focus on the underlying drivers of malfeasance in the public sector- for example, by building the rule of law and strengthening institutions of horizontal accountability (WB, 2008: 16).

I therefore would focus on four critical pillars that would make significant impact in the case of Nigeria. The four pillars are rule of law, freedom of information, International Corporation and the independence of the anticorruption agencies. The reason for choosing to focus on these sectors will become clearer upon the analysis of Nigeria's chequered anticorruption history in the following chapter.

3.0 Chapter 3- The Chequered Story of Anticorruption in Nigeria

Although national anticorruption agencies can be critical in preventing corruption before it becomes rampant, not only are they difficult to set up but they often fail to achieve their goals once they have been established...(Pope and Vogl, 2000: 1).

3.1 Introduction

While it may not be taken as an absolute truth, the anticorruption challenges- in terms of perceived success and failure rates can be assumed to reflect the state of health of it's a particular nation's National Integrity System. Thus, this chapter traces and analyses the some of the high and low points in Nigeria's fight against corruption against the background of the overbearing influence of factors external to the two major anticorruption agencies, the Economic and Financial Crimes Commission (EFCC), and the Independent Corrupt Practices Commission, (ICPC); against the background of its weak and sometimes deliberately undermined integrity systems.

3.2 The Nigerian Corruption Environment

In this subsection the corruption environment is subdivided into two sections-The Social and Political Environment, and the Legal Framework for anticorruption. They are examined hereunder.

3.2.1 Socio-Political Environment of Corruption in Nigeria

The political environment in Nigeria is mostly neopatrimonial, and Clapham (1985) recognizes Corruption and patron-client relations as its elements. He went on to define neopatrimonialism, as:

A form of organisation in which relationships of a broadly patrimonial type pervade a political and administrative system, which is formally constructed on rational-legal lines. Officials hold positions in bureaucratic organisations with

powers, which are formally defined, but exercise those powers as far as they can, as a form not of public service but of private property. Relationships with others likewise fall into the patrimonial pattern of vassal and lord, rather than the rational-legal one of subordinate and superior, and behaviour is correspondingly devised to display a personal status, rather than to perform an official function (Clapham, 1985: 48)

To many people, Nigeria is like the poster child or if stated more liberally one of the poster children of corruption. This is principally as a result of its seeming inability to deploy its vast mineral and material resources, which has been put to the cancerous impact of corruption in its national life (Onyeukwu, 2007, Utomi, 2006, Stiglitz, 2005, Sala-i-Martin and Subramanian, 2003). This got so bad that an analysis of its progress overtime, reflects a continuing reverse in its development, when compared with countries with which it was at once at par with or even better off in some way as a result of its vast resources (Okonjo-Iweala, and Osafo-Kwaako, 2007). As at 2003, Joseph Stiglitz, comparing Nigeria and Indonesia, said thus:

Some 30 years ago, Indonesia and Nigeria had comparable per capita incomes, and both were heavily dependent on oil revenues. Today, Indonesia's per capita income is four times that of Nigeria's. Nigeria's per capita income has actually fallen, from US\$ 302.75 in 1973 to US\$254 in 2002 (Stiglitz, 2005:13)

Nigeria's inability to get its developmental acts together has been put to the disproportionate impact of corruption in many facets of its national life. From a neo-patrimonial political environment (Joseph, 1987), to the poor management of its huge extractive resources (Utomi, 2006); from the absence of some development driving institutions like the freedom of information regime-under a civilian regime (Media Rights Agenda, 2000) to the absence of political will to manage and enforce what is available

(Ribadu, 2009). And from years of undemocratic political dispensation to a docile or non-existent opposition, as many opposition party members are declaring for the ruling party in droves, in search of political patronage and relevance- This year (2009) alone 3 star Governors elected under opposition party platform has publicly declared for the ruling party, and in many such declarations, the whole apparatus of state official usually follow the Governor into the new party platform.

3.2.2 Legal Framework for Anticorruption in Nigeria.

Nigeria is very active and rich in the making of laws and subscribing to international treaties and covenants. The case of corruption is thus very well captured, not only in ordinary legislative instruments but also in the Constitution of the Federal Republic of Nigeria, 1999 (the Constitution or CFRN 1999).

Even though the constitution did not provide any definition of the word 'corruption' it does recognize its existences and make provisions for its curtailment (Sections, 66, 107 209 and 318). It provides for the establishment of a 'Code of Conduct Bureau for Public Officers and enjoins the state to fight to abolish corruption by making it a political objective thus: 'The state shall abolish all corrupt practices and abuse of power (CFRN 1999, Section 15 (5). Just like the constitution, the ordinary criminal laws and penal codes in the Country did not also attempt any definition of corruption. As Oyewo points out:

The Criminal code for example merely states that 'an offence of corruption is committed, where a public officer corruptly asks, receives, or obtains any property or benefit' While the Corrupt Practices Decree of 1975, described corruption by restricting corruption to bribery, which it defines as 'the offer,

promise or receipt of any gratification as inducement or reward' (Oyewo, 2007: 4).

The limitations posed by the non-definition of the true ambits of corruption by the Constitution and the criminal and penal codes and the gap thereby created has not been overcome as no law in Nigeria defines corruption. Not even the establishment of the ICPC and the EFCC in 2003/2004 has done otherwise. Both legislations has long list of acts sanctionable practices which are termed corrupt. For, instance, the EFCC Act empowers the Agency to prosecute persons engage in Economic and financial crimes, which include:

..illicit activity committed with the objectives of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and 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, etc.; (EFCC Act, 2004: Section 46).

The EFCC Acts also gives it the responsibility and power to enforce the following provisions of the following allied legislations:

- (a) the Money Laundering Act, 200; 2003 No. 7 1995. No. 13
- (b) the Advanced Fee Fraud and Other Related Offences Act 1995;
- (c) the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994, as amended;
- (d) The Banks and other Financial Institutions Act 1991, as amended; and
- (e) Miscellaneous Offences Act
- (f) Any other law or regulation relating to economic and financial crimes including the Criminal code and the penal code (EFCC Act: Section 7(2))

The ICPC on the other hand was more focused on offences relating to bribery and gratification of public officer holders but still covered a lot of grounds that. Arowolo summaries its penal provisions thus:

.include giving or accepting gratification, counselling offences relating to corruption, fraudulent acquisition of property, fraudulent receipt of property, making false statements or return, bribery of public officers, using office or position for gratification, bribery for giving assistance in regard to contracts, The act also presumes that gratification has been corruptly accepted or agreed to be accepted, obtained or attempted to be obtained, solicited, given or agreed to be solicited, given or promised, or offered as an inducement or a reward in an offence bordering on gratification until the contrary is proved. In this connection, the act imposes a duty of disclosure. First on the person to whom gratifications is offered and second on the person from whom gratification is solicited. (Arowolo, 2006: 3).

The Code of Conduct on its part prohibited the giving and receiving of bribes by Public Office holders, the operation of private foreign accounts during tenure, as well as conflict of personal interest with official duties on the part of public office holders (Oyewo, 2007).

The powers conferred on both the EFCC and the ICPC are quit intimidating and no doubt, overarching and; capable of being abused in a situation that does not admit of effective controls.

Worthy of note is that Nigeria also signed and ratified the United Nations Convention on Against Corruption on the 9th of December 2003 and 14th of December 2004 respectively. However following from the provisions of the CFRN 1999 (Section 12), the Convention does not have any force of law in Nigerian except it is enacted as a national legislation by the legislature.

3.3 Corruption Cases in Nigeria

Recognizing that the public knowledge of corruption does not by itself mean that there is more or less corruption in the system, this section will try to trace the cases of corruption that became public knowledge during the period covered by this paper, to show that its nature was such that there was no way the anticorruption agencies could have been effective as major public office holders from all arms and levels of governance were involved. This is safe to do as corruption is neither a function of how democratic a state is nor how capitalist or economically viable it is (Wallace and Haepfer, 2000).

And against the backdrop of the nature of the political environment in Nigeria, there is always a strong possibility that the work of the agencies was and is still being manipulated to serve other ends. This situation would no doubt have been otherwise in a country with strong and active integrity systems, as the effectiveness of the Nigerian anticorruption agencies were undermined by an inefficient national integrity regime. While the agencies tried to breathe some fresh air into the fight against corruption, they were systematically frustrated by the gapping holes in the integrity system.

There are mind boggling allegations, verging on evidence, of looting of massive looting of money by Nigerian leaders, even in the so called high points of relatively sustained anticorruption fights in Nigeria (Ribadu, 2006, 2009; Bakre, 2008), which is the timeline for this paper. For instance, as at 2005 the total sum said to have been stolen was put at US\$521 billion (Nigerian World News, 2005 in Bakre, 2005). While President Olusegun Obasanjo may take the credit and all the accolades for setting up the two

anticorruption agencies of the period (in response to international pressure), he is not immune from the stain of corruption. He is said to have squandered US\$13.2 billion from 3 escrow accounts, and the misunderstanding between him and his Vice, Atiku Abubakar, who also revealed several corrupt practices of both. For instance they both benefited through their personal staff, from the proceeds of a controversial account maintained by their mutual friend (Otunba Fasawe) - He was said to have drawn the sum of US\$3, 085. 710 aside from allegations of poor handling of resources amounting up to US\$4.4 billion while he combined the position of a substantive Minister of Petroleum and the money could not be accounted for between December 2004 to April 2007 (Tribune, August 13, 2007 in Bakre, 2008).

While the President and his Vice President, the main drivers of the Executive arm of government, which represents a pillar or strand (as the case may be) of an efficient national integrity system were helping themselves to the national till, other arms of government within the ambit of the integrity system, like executives in the states⁶, the law enforcement agencies and the legislature were not left out.

Aside from those mentioned in Chapter one, the impressive list of those helping themselves to the till included -Three State Governors, who were impeached by their state legislatures for corruption and prosecuted, an Inspector General of Police was sacked prosecuted and sentenced for corruption, several judges and legislators

⁶ Nigeria operates the federal system of government with 36 states and a capital territory- which is regarded as a states for administrative purposes, and 774 local government areas

(Okonjo-Iweala and Osafo-Kwaako, 2007)⁷. With respect to individual fraudsters, the EFCC prosecuted and secured long term sentences for several, the highest and perhaps most contentious being that of Emmanuel Nwude and Amaka Anajemba both of whom were convicted for defrauding a Brazilian Bank of US\$242 million (Next, 2009)

What is most ironic is that while some state executives were prosecuted and sentenced the EFCC Act, the President who had overbearing influence over the operation of the anticorruption bodies- including the appointment of their Commissioners and, indirect influences through other mechanisms of state was left unscathed.

Having so far, in this chapter, considered the Nigerian environment through the socio-political environment, the existing legal framework for anticorruption and the peculiar context of corruption cases that emanates from the system at all levels, I will in the next section consider how an efficient integrity system would have provided the leeway for a more effective anticorruption system.

3.4 How Integrity Systems Enforce Anticorruption Institutions

In a World Bank Working Paper, Peter Langseth, Rick Stapenhurst, and Jeremy Pope (1997) identified the factors that militate against the effectiveness of anticorruption regimes (1997: 9-10). While the problems adumbrated by the authors cover the whole gamut of the integrity elements, it may not apply equally in all country specific cases, as earlier pointed out. Thus, for the purposes of this paper, I will be limiting discussions to

four of the problems that they identified – tying them directly to particular pillars of the TI/Pope Greek temple metaphor. The four that I see as requiring reform urgency in the case of Nigeria are:

- a. Watchdog Agencies: Particularly the independence of anticorruption agencies
- b. Role of the Media/Civil Society Participation: Particularly the need for a Freedom of Information regime
- c. International Corporation: Given the fact that multinational corporations are becoming regular fixtures of the corruption storylines in Nigeria
- d. Judiciary: Particularly the rule of law proposition as its absence or abuse has far reaching impact on how effective others are able to assert their independence and function effectively

I will however point out that these cannot be discussed in a strictly boxed format as other factors like political will-especially of the executive arm of government would invariably pop up as a common decimal in anticorruption agency's effectiveness. Since it is impossible to undertake an overhaul of all the systems at once, it is argued that getting the above four right would have immediate Impacts on the effectiveness of and the sustainability of the success/ gains achieved by the anticorruption agencies, like the EFCC and the ICPS, as recent experiences show.

3.4.1 Watchdog Agencies-Independence of the EFCC

An important component of an effective watchdog agency under the national integrity system framework is its independence from undue political interference and

manipulation. This is important because even a mere suspicion without more, that an anticorruption agency is not independent would surely impugn on its integrity. In the case of the EFCC, it does not only seem to be politically influenced by the executive (political leadership) branch of government, but legally it is. Only saints, which no politician is, can operate under the legal instrument setting it up and relationship with the political class without compromising its independence.

As I argued elsewhere (Onyeukwu, 2008), the Economic and Financial Crimes Commission (Establishment) Act, 2004 clearly shows that the agency is not independent of political influence. The inherent limitations to its independence can be seen with regard to the tenure of its Board members, its finance and reporting procedures amongst others. Section 2, subsection 3 of the Act provides that:

The Chairman and members of the Commission other than the ex-officio members shall be appointed by the President and appointment shall be subject to the confirmation of the Senate (EFCC Establishment Act, 2004)

Further more, the law does not only limit the powers of the president to the appointment of all the Commissioners but also gave the president the power to summarily dismiss any such person appointed by him and without further reference to the Senate which confirmed the appointment. Specifically it provides that:

A member of the Commission may at anytime be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or if the President is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office (Section 3 (2), EFCC Establishment Act, 2004)

With respect to funding, the Commission is still subject to the discretion of the Federal Government. The Act provides thus:

There shall be paid and credited to the fund established pursuant to subsection (1)..., such monies as may in each year be approved by the Federal Government for the purpose of the Commission (Section 35 (2), EFCC Establishment Act, 2004)

The Act also made the Commission subject to the Attorney-General, who it says, "...may make rules and regulations with respect to the exercise of the duties, functions or powers of the Commission (Section 43, EFCC Establishment Act 2004). The office of the Attorney General of the Federation is a creation of the Constitution⁸ and a political appointee at the pleasure of the President occupies it.

With these types of political encumbrances, it was not unexpected when because of the series of sensational investigations, arrests and prosecutions many argued that the President was using the Commission to settle political scores. The argument was that only those perceived as political enemies were investigated and prosecuted while political and other associates of the President and the ruling party were not.

Abati and Osadolor captured it thus:

This appeared to be the case, for example, when the EFCC published a strange list of persons whom it deemed unqualified to stand election in April because of yet unproven allegations of corruption. A misstep impugned the integrity of the EFCC leading critics to further charge that the Commission was lending itself to possible or actual political manipulation. One of the names on the list in question was that of then Vice President, Atiku Abubakar, who had personal differences with the President, whom the Presidency had tried every trick in the books to discredit but whose innocence was repeatedly affirmed by the courts of law (Abati and Osadolor, 2008).

With this kind of criticism and taking into account, the power equation and primary constituency of those mostly investigated and prosecuted by EFCC-the political class

⁸ Section 150 (1) of the Constitution of the Federal Republic of Nigeria, 1999, provides that "There shall be an Attorney General of the Federation who shall be the Chief Law Officer of the Federation and a Minister of the Government of the Federation"

and the rich private sector fraudsters it is obvious that anyone searching for an independent watchdog and looking to the EFCC for such is bound to hit a wall.

3.4.2 Role of Media/Civil Society: Freedom of Information Regime

In a democracy the role the media and civil society in policy making and engagement cannot be discountenanced. As Langseth, Stapenhurst and Pope, (1997), pointed out, one of the reasons for failure of anticorruption reforms is the non-involvement of the media and the civil society in the scheme of things.

I earlier posited (Onyeukwu, 2008b) that taken by itself and no more it may not resonate well as access to information without more does not serve any purpose but when viewed from the perspective of how empowering of citizens and how it can be deployed in the protection of other rights and the practice of democracy it presents a complex body of knowledge and possibilities, which maybe why ARTICLE 19 once referred to it as the 'oxygen of democracy'. Information that is accurate and not tainted by bias or doctored to promote any interest over the other or to provide basis for propaganda is what citizens need to hold governments accountable through informed decisions. Such body of facts can only be sourced by the media and the citizens freely in a freedom of information regime. To deny citizens the necessary legal framework for accessing information therefore amounts to nothing more than an abridgement of their right to freely participate in the governance of their country, and above all is a major weakness that encourages corruption.

ARTICLE 19 in the opening statement of its flagship publication says of freedom of information:

Information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of that society. But information is not just a necessity for people - it is an essential part of good government. Bad government needs secrecy to survive. It allows inefficiency, wastefulness and corruption to thrive. As Amartya Sen, the Nobel Prize-winning economist has observed, there has not been a substantial famine in a country with democratic form of government and a relatively free press. Information allows people to scrutinise the actions of a government and is the basis for proper, informed debate of those actions (ARTICLE 19, 1999: 1)

Other international instruments and bodies both at global and regional levels have also supported this position, which has led to the setting up of adequate legal and administrative mechanism in place for its realisation by several countries. For instance, the United Nations Development Programme says of the significance of information in relation to democracy, that:

Perhaps no reform can be as significant for making institutions work as reform of the media: building diverse and pluralistic media that are free and independent, that achieve mass access and diffusion, that present accurate and unbiased information. Informed debate is the lifeblood of democracies. Without it, citizens and decision-makers are disempowered, lacking the basic tools for informed participation and representation (UNDP, 2002: 75)

This recognises the clear unbroken relationship between freedom to and access to information on not only the quality of governance but more so the practice of democratic governance. As Mendel notes the Indian supreme court has further given judicial backing to the link between access to information and democracy when in *S. P Gupta v. President of India* it said: "Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing".

In response to why there is this rise in the number of countries with a freedom of information regime and why governments should care about its provision, Laura Neumann clarifies as follows:

Many governments are confronted with the urgent need to improve their economy, reform their constitution, strengthen institutions, modernise the public administration, fight corruption⁹, and address civil unrest. For these governments, access to information can be used to achieve all of these objectives. With an access to information law, governments must establish record keeping and archiving systems, which serves to make them more efficient, reduce discretionality and allow them to make better discussions based on factual information. Moreover, greater transparency can help re-establish trust between government and its citizens (Neumann, 2005: 2)

In 1999 Nigeria transited from long years of military rule and dictatorship with high hopes expectations that they will fully enjoy the dividends of democracy by having adequate opportunity to be heard on decisions that affect their welfare. This expectation was fuelled when the new government led by President Olusegun Obasanjo started speaking of reforms in all the major sectors of their national life. The expectation for an open and transparent government vide a freedom of information regime is yet to be realised 10 years after democratic rule and 9 years after the introduction of a Bill for Freedom of Information in the nation's bicameral legislature (MRA, 2000). Of recent even the head of the EFCC, Farida Waziri¹⁰ has spoken on the need to pass the freedom of information law by the legislative houses (Iriekpen, 2009, Aregbesola, 2009).

⁹ Emphasis is mine

¹⁰ Farida Waziri is the Executive Chairman of the Economic and Financial Crimes Commission, Nigeria

3.4.3 International Corporation

It is important to consider the importance of International Corporation in the whole anticorruption picture in Nigeria, especially given the fact that Nigeria has severally been on the spot light as a result of cases of corruption committed by multinational Corporation (MNCs) in the course of doing business in Nigeria. Nigeria is recognised at a major destination of international corruption is so bad that in many of such cases even where the home countries took action, and sanction the errant companies they almost always goes scot-free in Nigeria. In 2007, Nigeria suspended Siemens from doing business in Nigeria for corrupt practices in the course of its business dealings between 2001 and 2004 –which represents the so called high points of anticorruption in Nigeria.

The company was said to have bribes worth about 10m Euros to top government officials in Nigeria. Even though Siemens Chairman (Heinrich von Pierer) and Chief Executive (Klaus Kleinfeld) resigned over the scandal and, the company was fined the sum of 201 Euros by a Munich Court in Germany, no investigation was carried out in Nigeria and no former or serving government official was queried for the Siemens corruption in Nigeria (BBC, 2007). The most distressing part of the whole transaction is that while many were applauding the half measure of suspending Siemens from bidding for government contract in Nigeria, it took less than a year before the ban was lifted and they went back to business as usual (Oredein, 2008). Not even the fact that Siemens faced similar indictment in the United States and for which they paid about US\$1. 6 billion in fine.

This is in spite of the fact that an excerpt from the SEC statement regarding Siemens came short of calling the names of the then President, Vice President and his wife, and states that:

In the four telecommunications projects, approximately \$2.8 million of the bribe payments was routed through a bank account in Potomac, Maryland, in the name of the wife of a former Nigerian Vice President. The Vice President's wife, a dual U.S.—Nigerian citizen living in the United States, served as the representative of a business consultant that entered into fictitious business consultant agreements to perform “supply, installation, and commissioning” services but did no actual work for Siemens. The purpose of these payments was to bribe government officials. (In Silverstein, 2008)

While they faced further indictments and fines in the United States (Jianfei and Zhu, 2008), instead:

Yar'adua has rewarded Siemens with a new Power contract worth billions of Dollars. Under a new partnership with the company that was blacklisted by its predecessor as the lead firm. The Yar'adua government had recently signed a contract for the construction of three new turbines and waste recovery, boilers/steam turbines at Geregu due for completion on or before 2011 and 2014 respectively (Illalla, 2008).

As is the case with Siemens, so was it with Halliburton, in Nigeria-as it also came to light that Halliburton was also involved in bribing senior government officials in Nigeria. It came to light that it spent over US\$180 million to bribe senior government officials and a political party over many years (Gold, 2008). The company and one of its subsidiaries, KBR, were fined the sum of US\$559 million (Potter, 2009). In Nigeria, as was with the Siemens case, the government made initial attempts at painting a picture of resolve to deal with the issue but backed out for no known reason, but according to a VOA interviewee, for the reason that the name of the immediate past President who is reputed to be the incumbents beneficiary is on the list. He said that the government's

initial reaction was just playing political stunt with the whole matter as nothing was expected to come out of it at the end, and concluded that:

"Most people have shoved with the wave of a hand that once it involves Olusegun Obasanjo, there is nothing that is going to be done. The present government is a stooge of the former president," Mohamed said. (VOA, 2009).

Since there is a strong element of corruption that takes place with the active connivance of international organisations, it would make sense if there is a more coordinated process of pressuring Nigeria to take action, especially when such corporations has been indicted as in the case on Siemens and Halliburton. This is more so given that in both cases it was revealed that the proceeds of corruption as in many others was kept in foreign financial institutions (Bakre, 2008, Ribadu, 2009).

3.4.4 Judiciary- Rule of Law

In Nigeria, it is very common for government officials to speak of 'rule of law' as if it is one of the usual political speak that politicians are known for, all over the world. But when a government that professes rule of law is choosing when to apply the very principles of rule of law and when not to then, their sincerity is to be questioned. From the days of President Obasanjo from 1999 to 2007 (more particularly during the heydays of the anticorruption and reform programmes) to the present administration of President Yar' Adua it is obvious that Nigerian governments idea of rule of law needs serious questioning. Two instances from both eras would illustrate this position. During the period leading up to the 2007 general elections, the EFCC, under the supervision of President Obasanjo and its Chairman Mallam Nuhu Ribadu published 'a list' of corrupt politicians whom they said were disqualified from running for office. The list in actual fact included the names of strong opposition candidates who were capable of giving the ruling party a good fight at the polls or those of members of the ruling party who were out of favour with the President. (Abati and Osadolor, 2008). So while the

anticorruption institutions were 'active' in their fight against corruption, they were so only with respect to certain classes of people. This targeted and misinterpretation of the concept was carried over to the Yar'Adua administration when even though, he had professed that:

Frankly speaking, one thing, one legacy I would want to be remembered most for and I know it is very, very difficult to achieve, but I am determined to achieve it, is the establishment of respect for the rule of law. Because all these problems this nation is facing, whether it is in the electoral process, the economy, corruption, or others, are as a result of disrespect for or violations of the rule of law. So, restoring respect for the rule of law is honestly one thing I would want to be remembered for (Guardian, May 29 and 30 April, 2009).

As many continue to question many of the decisions that his administration has taken in total disregard of the rule of law mantra (Obijiofor, 2009). Most palpable being the administration's foot dragging over the trial of James Ibori, former Governor of the Oil rich Delta State, and who is reputed to be the major financier of the President's campaign in 2007 (BBC, 12 December 2007) and various others (Falana, 2007).

I admit that rule of law is all encompassing and may seem to cover all the ground of reforms but the fact that it is more procedural than substantive, and as such it is difficult to have a perfect situation. However its institutionalisation is more difficult and a continuous recourse to it in the workings of the anticorruption agencies and other pillars of integrity would provide a healthy atmosphere for an effective anticorruption regime.

3.5 Conclusion

In this chapter, I have considered the peculiar corruption environment and storyline in Nigeria, whilst situating them around against the backdrop of how the inefficiency of its national integrity systems undermines the effectiveness of the anticorruption agencies

despite the extensiveness of the statutory powers of the agencies. I have also argued that given the peculiar Nigerian environment and the fact that institutional needs differ from country to country that there is need to focus on improving four major pillars of the integrity pillars as a starting point to building a strong system that would assure the effectiveness of the agencies rather than focusing the agencies by themselves without regard to the environment that they function in.

In the next chapter, I will conclude and then go on to provide practical policy recommendations for assuring the effectiveness of anticorruption agencies, in Nigeria, by improving the efficiency of the national integrity systems.

4.0 Chapter 4- Recommendations and Conclusions

4.1 Conclusions

Given the long recognized nature of the average politician in Nigeria, it is no doubt a disservice to the fight against corruption to continue to rely on the old truism that the creation of new institutions without more would in anyway have positive impact on the level of corruption in the system. Way back in 1978, the Nigerian Constitutional Drafting Committee in its report pointed out that:

Governments in developing countries have tended to be pre-occupied with power and its material perquisites. Given the conditions of underdevelopment, power offers the opportunity of a lifetime to rise above the general poverty and squalor that pervade the society. It provides a rare opportunity to acquire wealth and prestige, to be able to distribute benefits in the form of jobs, contracts, scholarships and gifts of money and so on to one's relatives and political allies (CDC Committee Report 3.2-1 cited in Panter-Brick, 1978: 298).

It is therefore not surprising that despite the setting up of the Code of Conduct Bureau that followed the work of the Committee under the 1979 and subsequent Constitutions in 1989, 1993 and 1999; and; the ICPC and EFCC by acts of parliament in 2000 and 2004, Nigeria is yet to fully start on the road to stamping out corruption. Even the flash in the pan-like gains of the President Obasanjo regime, using the legislative instruments and new institutions were not only flawed then, as seen in the preceding chapter but are being reversed because the right nation integrity systems were not put in place before the institutions were established.

Thus as shown in this paper, the main driver of a sustainable anticorruption regime is not the number of anticorruption bodies but the integrity environment in which the

anticorruption bodies operate (Pope, 2000). The report of the African Peer Review Mechanism in 2008 returned a damning result when it concluded that:

Corruption is still endemic in Nigeria despite the activities of the anticorruption agencies such as the Economic and Financial Crime Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC). (African Union Report, 2008 in Punch, 2008)

This report clearly underlies the findings of this paper, that the EFCC and the ICPC has not been and will never be as effective as expected in fighting corruption in Nigeria except steps are taken to ensure that the necessary national integrity systems regime is in place and efficient.

On a recent visit to Nigeria the US Secretary of state Hilary Clinton said of the EFCC and Nigeria's anticorruption regime 'The EFCC has fallen off in the last two years. We want to see them start work again as before,' (Clinton, 2009). This clearly restates the issues raised in this paper. However, to see the EFCC and other similar anticorruption institutions in Nigeria 'working again' as hoped for by the Secretary of State and many Nigerians who relied on her speech as a confirmation of widely held national discontent with the work of the agency (ies), there is need to look at some strategic policy options that can be adopted going forward. The problem cannot solve itself with policy interventions that address the inefficiencies in the Country's national integrity systems.

4.2 Practical Recommendations

4.2.1 Recommendation One

Given the present situation where the President has overbearing influence over the work of the anticorruption agencies (or watch dog agencies), there is need to amend the

constitution with a view to limiting the power and influence of the President (or any other single political office holder) over the agencies, and ensures guaranteed funding and a multistakeholder accountability system for the agencies. This would help to assure that the anticorruption agencies are significantly independent from political interference and control, which would in turn impact on its effectiveness.

4.2.2 Recommendation Two

Since corruption usually takes place in secret and in the case of public office it is about public resources, there is no doubt that a freedom of information regime is an important pillar of integrity that need to be nurtured by any country that is desirous of having effective anticorruption agencies as it offers citizens' the necessary opportunities to be active participants in exposing official corruption through access to public records. Thus the Nigerian legislative houses need to expedite action on the Freedom of Information Bill that has been awaiting enactment since 2000. The national integrity system cannot be efficient in an environment that lacks a vibrant freedom on information regime. Its continued absence in the nations body of laws gives the impression that the agencies were set up to fail rather than be effective against corruption.

4.2.3 Recommendation Three

Multinational international corporation that are engaged in corrupt practices whether they be primarily registered in Nigeria or only doing business in Nigeria and their local corroborators' should face serious sanction that are not open reversal without some published laid down criteria. Nigeria political office holders cited in corrupt practices trials anywhere in the world should be liable to step down pending a full investigation of such by an independent Counsel appointed by relevant anticorruption agency.

4.2.4 Recommendation Four

Rule of law is an important component of the whole idea of a judicial system and an efficient national integrity system. As shown herein, in the preceding chapters and sections, above all else there is need to ensure that the watch dog agencies work in consonance with and within the ambit of the rule of law. This can be achieved mostly by the anticorruption agencies ensuring that their operations are carried out on accordance with the laid down procedures rather than reverting to political victimization of any kind as they were and are continuously accused of doing. Compliance with the tenets of the rule of law should form one of the basis for tenure renewal for the incumbent head of each of the agencies, after they serve out their first tenure in office.

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