

A Survey of Challenges of Managing Corruption in Nigeria by Economic and Financial Crimes Commission (EFCC) through Social Studies Perspectives

#### Oyewale, Aderemi Oyetunde

Department of Social Studies Emmanuel Alayande College of Education, Oyo tunsoye@gmail.com

#### ABSTRACT

Nigeria has a serious problem of corruption. It is very widespread and it manifests itself in virtually all aspects of the economy. The viral nature of this phenomenon is such that combating it is consistently proving difficult. It consequently brings about economic backwardness, political instability, social insecurity, infrastructural decay, unaccountability, negation of principle of law and the likes. Myriad of attempts aimed at curtailing the menace by successful governments have suffered various setbacks. However since the emergence of the Economic and Financial Crimes Commission (EFCC) to manage it, some conspicuous reasonable achievements have been identified by Nigerians. Based on secondary data this paper examined operations of the EFCC and the challenges of managing corruption in Nigeria. Taking cognizance of the fact that corruption as a complex phenomenon manifests in virtually every known institution and has transnational and global web of connectivity, an integrative theoretical approach was used in this explanation. The paper revealed that the Commission is confronted with myriad of challenges viz-a-viz unwholesome judicial process; weddling in its activities by the power that be, weak anti-graft laws etc. In order to ensure the enhancement of smooth operation of the Commission; it is recommended that: special courts are granted the commission; the Agency should be free from any form of executive and legislative influence, the constitutional provision shielding Chief Executive in Nigeria through immunity must be repealed; social studies education to be revived as an integral part of the school curricula at all educational levels among others.

**Keywords:** Corruption, Challenges, Managing Corruption, Economic and Financial Crime Commission, Social Studies Education

#### INTRODUCTION

Like many countries, Nigeria has a serious problem of corruption. It is widespread in the different tiers and arms of government and the private sector. It manifests itself in virtually all aspects of national life and in many types of transactions within and across levels of governments, within and between private enterprises of different types and scales of operations, between principal actors in private and public sectors, and within civil society operations. Practically every government since 1960s came into power with a promise to address corruption. The decision of successive Nigeria governments to create multiple institutions for combating corruption in public and private sectors is itself a confirmation of endemic nature of corruption in the country (Nanagham, 2011).

Corruption is a form of antisocial behaviour by an individual or group which confers unjust or fraudulent benefits on its perpetrators (Fan, Ekpe & Ita, 2008). It takes many forms, these include forgery, fraud, embezzlement, inflation of contracts, misuse and abuse of office (leakage of examination question papers, falsification of examination results and admission malpractices in schools), "dash", "kickbacks" and smuggling which covers a wide range of activities like false declaration and concealment of goods, willful underpayment of



customs duties; evasion of customs duties; trafficking of prohibited or restricted goods; use of unapproved rules and ports forging customs documents; touting in customs goods and documents (Fan, Usoroh, Ettah &Edinyang, 2009).

Transparency International (2012) defines corruption as the "abuse of entrusted power for private gain" at three levels; petty (management level), grand (leadership level) and political (systematic level). Petty corruption refers to everyday abuse of entrusted power by low-and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies. Grand corruption consists of acts committed at a high level of government that distorts policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good. Political corruption is a manipulation of policies, institutions and rules of procedure for the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth. Emah (2006) posits that for five years or so in a row, Transparency International has adjudged Nigeria to be the Number 1 or 2 in corruption in the world. This dubious honour is despite the extant laws, legislations and code of ethics that many professional associations and governments have adopted for their members and employees.

In the submission of Fan (2002), the root causes of corruption are poverty, false life style, pressure from dependents, bureaucratic bottlenecks, and primacy of wealth in Nigerian communities, greed and undue emphasis on academic certificate acquisition. At the individual level, poverty is a situation and process of serious deprivation or lack of resources and material necessary for living within a minimum standard conducive to human dignity and well-being. Excruciating and dehumanizing levels of poverty tend to weaken people's moral principles. In school system, poor salaries and denied benefits unfortunately create an enabling environment for the academics to indulge in "sharp" practices for survival. Nigeria does not frown on anybody who lives above his income. Luxury breeds corruption among Nigerians. The pursuit of wealth has been stripped of its religious and ethical meaning. When social values are grossly related to wealth, corruption thrives.

Corruption has been conceived as the driving force for the evolution of institutions in Nigeria. It is however important to note that the various communities which were brought together to form what is now called Nigeria negated the basic fundamentals of merit in one way or the other. Hence the basic characteristics of present forms of corrupt practices were present in their original form in Nigerian communities. All these have affected the development of the country in one way or the other. The above and more put the Economic and Financial Crimes Commission (EFCC) on the global spotlight due to its efforts at combatting corruption in Nigeria (Morphy and Adetutu, 2012).

The EFCC is making significant efforts towards effective management and control of corruption in Nigeria. Yet it appears as if nothing is being done. It is indeed factual that the agency is faced with multiplicity of challenges in executing this onerous task. It is on this premise that this paper attempted an examination of the EFCC and the challenges it faces in managing corruption in Nigeria, with an intent to delve into Social Studies context.



#### The Powers of the EFCC in Managing Corruption in Nigeria

It is non arguable that the fight against corruption was never systematic and deliberate until the civilian administration of Olusegun Obasanjo with the emergence of the ICPC and EFCC. Having identified the fact that the EFCC has the capacity to control corruption in Nigeria due to its wide range of power as well as support internationally, it is considered the most vibrant as far as combating corruption is concerned in Nigeria at least for the time being (Emah, 2006). Thus it is important to examine the EFCC and it role towards managing corruption in Nigeria.

The role of EFCC in combating corruption in Nigeria lies within the legal framework relating to its powers and functions. These roles as guaranteed by the EFCC Act of 2004 are as follows:

- (i) The examination and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies, or groups involved;
- (ii) The investigation of all financial crimes including illegal charge transfers, advance fee fraud, money laundering, counterfeiting, fraudulent encashment of negotiable instruments, computer credit and fraud, contract scam etc;
- (iii) The adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crime related offences or the properties the value of which corresponds to such proceeds;
- (iv) The adoption of measures which include coordinate, preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;
- (v) The facilitation of rapid exchange of scientific and technical information and the conduct of joint operations agreed towards the eradication of economic and financial crimes;
- (vi) The determination of the extent of financial loss and such other losses by government, private individuals or organization;
- (vii) Collaboration with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the commission concerning:
- (a) The identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes;
- (b) The movement of proceeds or properties from the commission of economic and financial and other related crimes;
- (c) The exchange of personnel or other experts;
- (d) The establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transaction and person involved;
- (e) Maintaining data, statistics, records and report of person, organisations, proceeds, properties, documents, or other items or assets involved in economic and financial crimes;
- (f) Undertaking research and similar works with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.
- (viii) Maintaining a liaison with the office of the Attorney-General of the Federation, the Nigeria Customs Services, the Immigration and Prison Service Board, the Central



Bank of Nigeria, the National Drug Law Enforcement Agency, the Nigerian Deposits Insurance Corporation and such other financial supervisory institutions involved in the eradications of economic and financial crimes;

- (ix) Dealing with matters connected with extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving economic and financial crimes;
- (x) The coordination of all existing, economic and financial crimes investigating units in Nigeria;
- (xi) Taking charge of supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offences connected with or relating to economic and financial crimes;
- (xii) Carrying out and sustaining rigorous enlightenment campaign against economic and financial crimes within and outside Nigeria; and
- (xiii) Carrying out such other activities as are necessary or expedient for the full discharge of all or the functions conferred on it under the 2004 Act.

## Special Powers of the Commission

The commission has power to:

- a. Cause investigations to be conducted as to whether any person, corporate body or organization has committed an offence under the Act or other law relating to economic and financial crimes;
- b. Cause investigations to be conducted into the properties of any person if it appears to the commission that the person's life style and extent of the properties are not justified by his source of income.

In addition to the powers conferred on the EFCC by the Act, it is also saddled with the responsibility of the coordinating agency for the enforcement of the provision of:

- a. The money laundering Act 2004; 2003 No. 7, 1995 No. 13;
- b. The advance fee fraud and other related offences Act 1995;
- c. The failed banks (Recovery of Dept. and Financial Malpractices in Banks) Act, as amended;
- d. The Banks and other Financial Institution Act 1991, as amended;
- e. Miscellaneous Offences Act; and
- f. Any other law or regulation relating to economic and financial crimes including the criminal code and penal code.

Summarily, the Economic and Financial Crimes Commission (EFCC) is empowered to prevent any form of economic and financial crime in Nigeria; investigate and prosecute those involved in money laundering, embezzlement, bribery, smuggling, illegal arms transactions, oil bunkering, unauthorized mining, human trafficking, child labour, tax related offences, cybercrimes, foreign exchange malpractices, currency counterfeiting, tracking, freezing as well as confiscation of sleaze wealth including those of terrorist outfits. With the aforementioned functions of the EFCC as stipulated by its establishment Act 2004, the commission would require other constitutional backing that would make its function more effectively and attain great height of success given the enormous task of



controlling corruption in Nigeria, as well as supervisory role which it is to play over other existing economic and financial crime investigating units in Nigeria.

### The Problem of Corruption in Nigeria

In its Annual Report for 2012, the Economic and Financial Crimes Commission (EFCC) observed that:

Corruption in the public sector remains a sore spot in Nigeria's quest to instill transparency and accountability in the polity. The failure to deliver social services, the endemic problem of the power supply and the collapse of infrastructure all linkedwith corruption.

This is a pointer to the fact that the citizenry's quality of life is negatively impacts on by the high rate of corruption in Nigeria. Amundsen (2010) opined that "corruption pervades all levels of government in Nigeria, and the country is infamous for its high levels of corruption, and for the international effects of organized financial crime originating in the country". Some of the factors identified as having been instrumental in enthroning corrupt practices in Nigeria among other things include greed, the nature of Nigeria's political economy, the character of the Nigerian state and its elite, the weak nature of governmental institutions, a dysfunctional legal system, a culture of affluence and ostentatious living, extended family pressures; and quite frequently, ethnic loyalties and competitive ethnicity (Agbu, 2003). The effects of corruption in Nigeria are numerous: lack of basic infrastructure like good road networks, misuse of natural resources, inadequate power and water supply, mediocrity in professional and leadership positions, defective leadership outputs, fuel scarcity in an oil producing nation, falling standards of education and work output, high unemployment rates, the ever widening gap between the rich and poor, international effects such as the tarnished image of the country in the international circles and the caution exercised by foreign nationals in entering business transactions with Nigerians thereby weakening the economic sector (Waziri, 2010 in Adesina, 2016).

#### A Review of the Activities of the EFCC Aimed at Controlling Corruption in Nigeria

The emergence of Economic and Financial Crimes Commission (EFCC) as an antigraft agency has revealed a convincing stance to well meaning Nigerians that corruption in Nigeria has passed the alarming and entered the fatal stage. Therefore, in an attempt to manage and control corrupt practices, the agency spelt out modus operandi in terms of how it coordinate its activities in the country. The first step towards achieve this laudable aim is the fact that for the commission to initiate any move towards involving itself with any case of corruption, it must receive petition with regards to the said issue. This would be forwarded to the agency by individuals or organization(s). On receiving the petition(s) the commission will evaluate them to determine whether the case falls within its mandate or schedule. In situation where the petition(s) falls within the purview of the EFCC, it will be accepted for thorough investigation. The commission would then send letter of invitation to the said individual(s) for questioning with regards to the allegation(s) in the petition. In order to maintain effective investigation, the commission may arrest the said individual(s) alleged by the petition to be corrupt and detain them. These arrests and



investigations are usually carried out by the General and Assets investigation unit of the Commission. According to the EFCC Act 2004, 13 (1) the General and Assets Investigation Unit shall be charged with responsibility for:

- a. The prevention and detection of offences in violation of the provision of the Act;
- b. The arrest and apprehension of economic and financial crime perpetrators;
- c. The investigation of assets and properties of persons arrested for committing any offence under the Act;
- d. The identification and trace of proceeds and properties involved in any offence under the Act and the forfeiture of such proceeds and properties to the Federal Government and
- e. Dealing with matters connected with extradition and mutual assistance in criminal matters involving economic and financial crimes.

According to the EFCC Act 2004, 13 (2a), the Legal and Prosecution Unit shall be charged with the responsibility for prosecuting offenders under the Act. Once a motion of corruption is filed, the commission through the unit follows the required legal procedure until the case is concluded in the law court which may be a conviction of the accused, a discharge or striking out of the case for lack of substantial evidence. The EFCC Act, 2004, 40 further substantiated the proceedings in the law court and read thus: "subject to the provisions of the constitution of the Federal Republic of Nigeria 1999, an application for stay of proceedings in respect of any criminal matter brought by the commission before the High Court shall not be entertained until judgement is delivered by the High Court".

In view of the above, one cannot but appreciate the impact of the EFCC in controlling corruption in Nigeria so far. Notably, the arrest; detention; arraignment; and conviction of some ex-chief executives of states, and other highly placed Nigerians. In the opinion of Ethelbert (2016) however, these can be said to be pseudo-results or partial success owing to the fact that the commission's operations towards corruption control appears to be selective if placed on revelation by Lai Mohammed in January 2016 that 55 Nigerians stole 1.34 trillion naira between 2006 and 2013 from the national treasury. In line with Lai Mohammed's submission, those involved include: 15 former governors, alleged with 146.84 billion; 4 former ministers, alleged for 7 billion; 12 former public servants at federal and state levels, said to have stolen over 14 billion; 8 persons in the banking sector, alleged to have stolen 524 billion; and 11 businessmen alleged with 653 billion.

According to (Fayose in Balogun 2016:11);

...the publicized arrest of President Buhari's associate and All Progressive Congress (APC) Chieftain, Jafara Isa, and the reported refund of  $\forall$ 100 million to the EFCC as the first trick used by the Federal Government in its attempt to deceive Nigerians into believing that the fight against corruption was not selective.

The point being made is that what is good for the geese is good for the gander. The fact remains that for the EFCC to perform beyond average, and deliver excellent and efficient anti-graft crusade. "Nigeria needs a Federal Chief Executive (President) who will be ready to commit class suicide i.e. damn all consequences and negate all the ethics and principles which sustain the power elites groups in the country" (Ethelbert, 2016).



# Challenges Facing Effective Management and Control of Corruption by the EFCC in Nigeria

Having reviewed the activities of EFCC in controlling corruption in Nigeria with it relative impact, one would be tempted to assume that the commission is not confronted with challenges. On the contrary, however, the EFCC in its bid to regulate or combat corruption in Nigeria, is being face with some challenges which serve as impediments against effective control of corruption. One of the challenges confronting the EFCC is the unfriendly judicial process in the country (Ethelbert, 2016). The legal tools of stay/delay of proceedings in the prosecution of corruption cases have resulted in about 2,000 unfinished case of the Commission outstanding in courts spread across the country as at 2011 (Nanaghan, 2011). This is so because the Commission's duties end with the arrest, investigation and prosecution of offenders. While on the other hand the trial (delayed or speedily) as well as passing of judgement on persons on corruption charges, is the exclusive reserve of the judiciary. Another impediment to the effective control of corruption by the EFCC in Nigeria is the use of meddling in the Commission's activities by politicians interested in the cases of arrested persons suspected to be corrupt by the EFFC especially if the individual(s) in question are high profiled individuals in the country. Ethelbert (2016) opined that there are evidences that the EFCC was constantly under pressure from formidable political interests which cut across political lines from both the executive and legislative arms of government, especially at the National Assembly and the Governor's from most importantly where one of their own is involved. Effective control of corruption by the EFCC in Nigeria is hampered by the non-security of job of the EFCC chairman. For instance, the EFCC Act 2004, 2 (3), and 3 (2) states that:

The chairman and members of the commission other than ex-officer members shall be appointed by the President and the appointment shall be subjected to confirmation of the senate. A member of the committee may at any time be removed by the President for inability to discharge the function 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 for the interest of the commission or the interest of the public that the member should continue in office.

The implication of the aforementioned according to Ethelbert (2016) "is that the commission's high ranking officials are by extension part of the executive arm and as such expected to walk and work in line to the expectation of their boss (the President) as well as trade with caution on issues which concerns the legislative arm in order not to be seen or perceived as being ungrateful to those that sanctioned their appointment". This is an impediment to the effective control of corruption by the EFCC. Another impediment to the smooth operation of the commission's activities is lack of financial autonomy. For instance, the 2014 fiscal year indicates that the agency proposed  $\cancel{N}_{21.058}$  billion while  $\cancel{N}_{10.245}$  billion was proposed by the Budget Office for the same period for it (Ethelbert, 2016). It is therefore imperative to note that insufficient funding of the agency pose great challenge to its operations as such may make its staff vulnerable. The point being made is that if the commission has an independent means of generating its finances and not reliance on government, it will make adequate budget on the basis of its requirement for effective



operation. One can equally consider the issue of constitutional immunity which guarantees that certain public office holders in Nigeria are not justiciable while in office. No matter the degree of their action(s) which may generally be defined as corrupt, the EFCC do not have the constitutional backing to investigate, arrest or prosecute these set of public office holders (power elite) while they are still serving. This immunity is an impediment to the effective control of corruption by the EFCC in Nigeria. Despite the efforts being made at controlling corruption in Nigeria by the EFCC, the fight against corruption in the country is still a long one. This can be attributed to the impediments analysed above which stands against the effective control of the phenomenon by the EFCC which cannot be pushed aside just with were wave of the hand or wishful thinking.

#### Social Studies Education as Panacea for Socio-Political and Economic Problems in Nigeria

The various sociological and cultural problems in Nigeria and the need to find means of solving these problems justify the inclusion of Social Studies into the Nigerian educational programme. It is a problem approach discipline that deals with the relationship between human beings and the environment in which they function as social animals. Social Studies is concerned with human survival in his environment, it studies the society and all its components as they affect human being and as they themselves in turn do affect them. It equips man with those information and skills that will enable him, to cope with and solve those problems that he encounters in the environment (Falade, 2008).

In Nigeria, there are various socio-economic and political problems. Some of these problems include injustice, corruption, joblessness, social crises, family instability and religious intolerance. The objectives of Social Studies centered on developing in the citizens those attitudes and skills that will enable them to positively contribute to personal, local and national developments. In view of this, if Social Studies is effectively taught in the Nigerian schools, it is capable of solving some of these problems in Nigeria (Falade, 2008). Social Studies intends to inculcate in the learners certain citizenship traits and values such as democratic beliefs, civic responsibility, patriotism, loyalty, transparency, tolerance etc. It has been observed however, that one of the major problems in Nigeria is the negative and anti-social behavioural traits displayed by some Nigerian citizens. Social Studies education intends to solve these problems by developing in the learners, those personality traits that can help to move the nation forward. It promotes understanding of the social problems in one's locality and proffering possible solutions to the socio-economic problem rearing it ugly head in Nigeria. One cannot but contend the assertion that the widespread of corrupt practices in Nigeria has made the rich richer and the poor poorer (Fan, Usoroh, Ettah & Edinyang, 2009). The situation is so critical now that something needs to be done to reverse the trend. It is high time all Nigerians wake from their slumber and fight corruption.

Osundare (2012) asserts that "if Nigeria does not kill corruption, corruption will kill Nigeria". Nigerians do not have to stretch their imagination to picture the consequences of corruption, as almost every discerning citizen can link the bad roads, moribund public hospitals and institutions of learning and increasing rate of unemployment in the country to the malady. The poet (Osundare, 2012) described corruption as the country's "largest and most profitable industry that witnesses no recession" he then advocated that



politicians should be made to account for their security and constituency votes most of which go into their pockets. On a final note, corruption is believed to be the bane of development in the country. It has been largely responsible for the stunted economic growth of the country, and for the mass poverty that reigns in the land. If the country is to make progress on the economic and political fronts, a culture of zero tolerance for corruption must be promoted at all levels of the society.

## CONCLUSION

Corruption is being viewed as a major challenge in Nigeria and it is negatively affecting Nigeria's image in the international community. However, one should not jettison the believe that the phenomenon is equally a major problem confronting the world. Corruption is a viral ailment which hinders the socio-political and economic development of the entire global system. Efforts have been made and still ongoing in different parts of the world to at least bring this menace to a bearable minimum. In a bid to stem the tide of corrupt practices in Nigeria, an administration established Economic and Financial Crimes Commission (EFCC) in the year 2004 with an 'Act'. The agency has recorded significant achievements toward this end but these are not void of various challenges. These challenges stand as impediments to the smooth operation of the commission aimed at making Nigeria corruption free. This paper holds the fact that if the impediments against EFCC in controlling corruption are removed, the Commission's effort would go a long way in addressing corruption in the country.

## RECOMMENDATIONS

The Commission's operation should be freed from the shackles of the hindering judicial process of the country by establishing special courts for it to prosecute corruption cases. It is even necessary to organize for live coverage of Commission cases in these special courts to clear any form of doubt or otherwise of the public with regards to the merit/demerit of conviction(s) or acquittal(s) of individuals or groups indicted for corruption. This will go a long way in reducing the number of awaiting cases and trials on account of corruption. The Commission must be completely independent of both the executive and legislative influences (power elite influences) which serve as obstacles to the smooth operations. To achieve this, the Commission's funding must be independent of government budgetary allocation. Convicted corrupt individuals shall not only refund the said stolen sums of monies and asset acquired, but must pay calculated accrued interest on this sleaze wealth as well as serve stipulated number of prison term(s). This in no small measure will serve as deterrence to others. Section 308 of the 1999 Nigerian constitution which shields Chief Executive in Nigeria through its immunity clause should be repealed to pave way for meaningful progress towards reducing or eventual elimination of corrupt practices among public office holders. The emolument of political office holders at all tiers of government should be publicly published. This way, the public and indeed the EFCC would not be in doubt of those living above their means. There should be continuous collaboration between the EFCC and other Financial Intelligence Units across the globe as well as exchange of ideas and continuous training of staff of the agency to meet with current technological changes brought about by the neoliberal telecommunication age. There is a



need for Social Studies education to be revived as an integral part of the school curricula at all educational levels, whereby Nigerian students are taught the values of patriotism and service.

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