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Review

Corruption and direct foreign investments in Nigeria: Challenges of implementing anti-corruption programmes under Obasanjo, 1999 – 2007

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Without doubt, Corruption and other related vices constitute a substantial component of doing business in Nigeria. This paper illustrates that these vices not only constitute criminal offence, but also discourage the flow of foreign investments into Nigeria. Obasanjo on assuming office in 1999 declared the fight against corruption and related offences as his number one policy thrust, and took seemingly bold steps to remedy the situation. However, it is revealed that Obasanjo efforts were not very impressive due to politicisation and blackmail; constitutional immunity clause constraints; public apathy and doubtful attitudes towards anti-corruption task; and, re-establishing the rule of law, etc. in view of these challenges we recommend among others as follows: a clear definition concept of corruption from the legal, socioeconomic and political perspectives; the Act enacting anti-corruption agencies should clearly demonstrate the multifarious nature of corruption and other related offences and appropriate sanctions provided; the immunity granted certain public officers should be removed in order to discourage corrupt practices and other related vices by public office holders; the Customs, Police and Immigration departments should be overhauled, and corrupt officials relieved of their duties; collaborations by multinational corporations/government and indigenous agents should be severely penalized; and, Foreign governments and international financial institutions should assist Nigeria locate and repatriate looted monies from the country by the past and present public officers.

Keywords: Corruption, rule of law, directs foreign investments, anti-corruption programmes.

INTRODUCTION

This paper examines the prevalence of corruption and other related vices in Nigeria and how the government of President Olusegun Obasanjo attempted to grapple with the problem; with a view to attracting direct foreign investments to the country. Also, we attempt to show how multinational corporations have facilitated or otherwise these vices? We are interested in answering the following questions: To what extent did Obasanjo succeed in

containing and handling these vices through his much-vaunted anti-corruption programmes? What were the major challenges the administration faced in the task of sanitizing the country? How did the administration cope with these challenges? What are the implications of corrupt practices and other related offences on direct foreign investment in Nigeria? And, what should be done to curb the incidences of corruption and other related offences with a view to making Nigeria a desirable business destination?

Kofi Anan in an address (to the 9th International Anti-Corruption Conference (IACC) Durban, South Africa, 10

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October, 1999) noting the debilitating effect of corruption on the interest to do business in Africa without any equivocation declared that

Corruption ... is especially destructive in developing countries with delicate economic situations it has critically hobbled and skewed Africa's development. There is no point pretending that this is not true - Kofi Anan (cited in van Vuuren, 2002:1).

Anan (cited in van Vuuren, 2002) therefore not only advises that addressing the problem of corruption would require public policy targeting both payer and recipient, but also, that African countries should make the fight against corruption a genuine priority. The cost of not doing this he noted would be very high in terms of lost resources, lost foreign investment, distorted decision making, and failing in public confidence. Explicating further Anan posits that corruption whether in the form of "Bribery undermines human development and a transition to stable democratic rule". In deed corrupt practices reduces direct foreign investment inflows to a country. It poses a very serious threat to the much desired economic growth and development of developing societies, including Nigeria. Against this scenario, van Vuuren (2002) observes "The world's wealthy are slowly waking up to this and criminalizing this scandalous practice of bribing foreign public officials."

However, van Vuuren (2002) maintains that for these measures to succeed the collaborative effort, domestic anti-corruption strategies of the countries of the South become imperative. He believes that if this opportunity is missed, the risk of investing private capital in marginalized economies, perceived to be highly corrupt, and would make investment-driven economic growth possibly even unattainable. Van Vuuren adds that Corruption creates macroeconomic distortions and barriers to development in the sense that it brings down investment and economic development by not only raising the cost of carrying out business (for the burden of every bribe paid will in the final analysis be borne by the consumers) but lead to reduction in quality of products and public sector projects even though raising their costs. Aluko (2008) alluding to the 1998 World Bank Development Report argued:

If just five per cent of the value of all direct foreign investment and imports into countries known to be corrupt disappears, the gains will amount to a staggering \$80 billion a year and that unless the corruption disappears the countries providing the needed assistance and debt-relief to the poor countries will not continue to play the game any longer (Aluko, 2008).

From the above, one is likely to suggest that corruption and other related vices tends to stifle investment-driven industrial development of any nation. Hence, appropriate policy actions must be taken to checkmate it. Since Nigeria has chosen the capitalist path to socioeconomic

development, and has looked forward to the contributions of direct foreign investment to realizing this aspiration, and considering the debilitating effect of corruption to the economy, it is imperative to adopt strategies to nib it in the bud. Corruption has eaten deep into the Nigerian state system. For instance, respondents in a study of business practices of over thirty firm US firms from a population of 200 multinational corporations overwhelmingly agreed that bribery was a substantial component of their business conduct in Nigeria. Also, they agreed that bureaucratic corruption have become the norm rather the exception for speedy consummation of official matters. The trends we have mentioned elsewhere in the study have tended to impact negatively on the inflow of direct foreign investment to Nigeria. Hence, the need 'sanitize' the socioeconomic and political environment with a view to creating a conducive one for businesses to thrive in Nigeria.

Conceptualizing Corruption

Essentially two theoretical planks underlie the policy implications of the phenomena known as Corruption. On the one hand, are those who hold the view that Corruption (particularly bribe) acts as speed money and enable the avoidance of bureaucratic deficiencies. They claim that corruption is having beneficial face that make Pareto efficiency. This argument is known as "greasing the wheel" was supported by Leff (1989) and Lui (1985). In fact Liu (1986) and Lien (1986) arguing from the above, and in the contest of a queuing model maintain that corruption induced efficient outcomes in that the ones with the highest willingness to pay bribe were exactly the ones who had the highest opportunity costs of waiting. On the other hand, are those who believe that corruption have negative impact on the economy, and with particular relations to direct foreign investment it distorts the composition of capital flows by reducing the share of foreign investment in favour of short term capital flows such as bank loans. Second, it increases the likelihood of currency/financial crises.

In its simplest form Corruption refers to the misuse of power for private benefit or advantage. This power may, but need not, reside in the public domain. Besides money, the benefit can take the form of protection, special treatment, commendation, promotion or the favours of women or men (Leisinger, 1996). To Otite (1986), Corruption "simply means the pervasion of integrity or state of affairs through bribery, favour, or moral depravity." That is, corruption

involves the injection of additional but improper transactions aimed at changing the normal course of events and altering judgements and positions of trust, it consists in the doers' and receiver use of informal, extra-legal or illegal acts to facilitate matters (Otite, 1986: 12).

In ordinary parlance corruption simply means asking, giving or taking a fee, gift or favour as a condition for performance of one's legal or assigned responsibility. It might also take the form of

... the perversion or obstruction of the performance of such task or the performance of illegitimate task;-hoarding, collusive price-fixing, smuggling, transfer-pricing, inflation of prices, election rigging, illegal arrests for harassment or intimidation purposes, abuse/misuse/non-use of office, or power, dumping of obsolete machinery of out-dated drugs, illegal foreign exchange transactions, legal but obviously unfair and unjust acquisition of wealth, gilded crimes', certificate forgery, false accounting and claims, diversion of public, corporate, or other person's money or property to direct or indirect personal use, et cetera (Odekunle, 1985:33).

It is noted that corruption in the context of some societies is difficult to define. To some people, what might be termed a "corrupt practice" in principle might be construed as the normal societal norm. Indeed, corruption exist in every society albeit, at varying degrees. Hence the belief that corruption cannot be eliminated but minimized. Another conceptualization of corruption that guides part of the exposition of this study is the one by Osoba. To Osoba, corruption is a

form of antisocial behaviour by an individual or group which confers unjust or fraudulent benefits on its perpetrators, is inconsistent with the established legal norms and prevailing moral ethos of the land, is likely to subvert or diminish the capacity of the legitimate authorities to provide fully for the materials and spiritual wellbeing of all members of society in a just and equitable manner (1996: 45).

Again, it is worth noting that corruption is not only peculiar to the Third World countries. It is found in every complex society. Indeed, corruption is a worldwide problem. To restrict this lack of social control to the developing countries alone would be to take an unfittingly optimistic view of the pestilence. Leisinger (1996) cites Hans-Ludwig Zachert, head of the German Federal Bureau of Criminal Investigation, as likening corruption in his country to corrosion: initially it only crops up here and there and frequently makes inroads beneath the surface. Zachert contends that no matter how much government apologists may maintain otherwise, corruption in the public service is not just a matter of "a few black sheep" but an alarmingly everyday occurrence in Germany. Furthermore, in emergent countries such as South Korea and Mexico former top officeholders have been arrested or are suspects in connection with corruption; likewise in France, Italy, Belgium, and Japan. American analyses see corruption as a problem for the United States too. Further publications from the United Kingdom, Japan and The Netherlands, as well as a voluminous documentation on Italian *tangentopoli* (more

than 1,300 top managers were arrested), point to the supposition that virtually every society on earth knows corruption in one guise or another.

However, the distinguishing denominator is the degree of its presence in any society. In addition, the definition and identification of what constitutes corruption is largely dependent on the perception and societal values or norms of the individual. It is interesting to observe that what may traditionally be accepted as a normal or expected pattern or way of life in Africa, for example, the paying of homage or tribute to elders and traditional rulers might be misconstrued as a form of corrupt practice in the West. Again, in the West, what most people refer to, as a "tip" is likely to be seen by most Africans as a corrupt practice. It is also interesting to observe that the definition of what is corruption generally is culture-bound and status-oriented. For instance, in Nigeria when a highly placed person commits acts of corruption it is common to hear the use of such concept as misapplication of funds, to describe such acts. Even in the United States of America, we find the use of such nomenclature as corporate scandal, or this or that scandal to report what is generally a corrupt act. This study accepts corruption to encompass all forms of illegal, unjustifiable and dubious ways and means to achieve a desired goal, in which one person gains while, the other person loses. It implies a scenario of grossly parasitic and unequal relationships. We agree with the position of Osoba that:

Corruption was not invented by, nor is it peculiar to Nigerians. On the contrary, it is a global phenomenon with deep historical roots, although it manifests itself with significant similarities and differences in different societies, depending on the peculiar systems of power distribution and the legal and moral norms operating therein (1996: 46).

Again, we agree with his submission (1999: 46), that the endemic degree of corruption in Nigeria represents nothing other than the hybrid of "traits of fraudulent antisocial behaviour derived from British colonial rule and those derived from, and nurtured in the indigenous Nigerian context." Indeed, nothing is further from the truth.

Reporting on "Corruption's Supply Side", 2002 Janet Sebastian notes that the Report on global anti-corruption organization shows that "Multinational corporations from some of the richest industrialized nations in the world are involved in overt criminal activities." In fact, it is true that companies from wealthy nations are more likely to offer large bribes to senior officials in developing nations in order to gain lucrative business contracts. This position is vividly illustrated in the Transparency International's (TI) Bribe Payers Index 2002. The surveys conducted by Gallup International in the emerging market economies, including Nigeria and South Africa showed that Russia, China, Taiwan and South Korea topped the bribery index. Others included the US, the United Kingdom, and many European countries. Sebastian reports that Peter Eigen, Chairman, of Transparency International, commenting on

this ensuing trend and in an attempt to explain why, argued that:

The laws are not being properly enforced. Our new survey leaves no doubt that large numbers of multinational corporations from the richest nations are pursuing a criminal course to win contracts in the leading emerging market economies of the world (Sebastian, 2002).

Eigen went further to point out that:

Politicians and public officials from the world's leading industrial countries are ignoring the rot in their own backyards and the criminal bribe-paying activities of multinational firms headquartered in their countries, while increasingly focusing on the high level of corruption in developing countries (Sebastian, 2002).

Eigen was reported to have accused the governments of the richest nations of failing to recognize the rampant undermining of fair global trade by bribe-paying multinational enterprises. It is worthwhile noting that the index, launched simultaneously in South Africa, France, and Hong Kong, covered the interviewing of 835 respondents. These encompass senior executives from foreign and domestic companies, executives at chartered accounting firms, representatives of bi-national chambers of commerce, executives from national and foreign commercial banks and commercial law firms. The Gallop Poll focused on the supply side of bribery from 21 leading exporting countries to senior public officials in the leading emerging markets of the world where these international companies are headquartered. The survey took place between December 2001 and March 2002 in Argentina, Brazil, Colombia, Hungary, India, Indonesia, Mexico, Morocco, Nigeria, the Philippines, Poland, Russia, South Africa, South Korea, and Thailand. The choice of these countries were predicated on the assumption that they account for over 60 per cent of all foreign direct investments into the developing countries, and the perceivably "large degree on international corruption affecting developing countries." The study became pertinent against the background of the OECD Anti-Bribery Convention, which was signed in 1999. The convention was hailed as a landmark event at the time and, which has since been ratified by many of the countries on the 2002 index; however, it is now looking more and more like a hollow agreement. It was highlighted that

The survey showed that ignorance of the convention is still as widespread as it was in 1999 when it was launched – with just 19 per cent of the 835 respondents aware of it. The survey also concluded that corporations, in general, do not fear the risk of prosecution knowing that there is the opportunity to bribe themselves out of trouble (Sebastian, 2002).

The above assertion partially explains why for most countries sampled, there was apparent increase in the rate of bribe paying. For instance, in 1999 we had the following indices: South Korea – 34; Australia – 8.1; Sweden – 8.1; France – 5.2, whereas in the year 2000 the following trend was noticeable: South Korea – 3.9; Australia – 8.8; France – 5.4. Few countries such as UK and US showed relative reduction in their perceived incentive to pay bribe. Githongo reasoned the following factor underlined this trend: "Elimination of corruption in the judiciary, followed by political parties and the police was high on the survey findings... (Sebastian: 2000)." Indeed, Sebastian argues that the increasing levels of bribery by foreign companies in the past five years were due to public tolerance of corruption and that any decreases in the same period could be attributed to greater press freedom. The study also reviewed the incidence of bribe paying by sectors, and found that the most flagrant corruption occurs in the public works/construction and arms and defences sectors, which are plagued by endemic bribery by foreign firms. This trend was corroborated by a study carried out by the UK chapter of Transparency International, "which found foreign bribery associated with tens of billions of dollars in defence deals." Accordingly, we note that this revelation has far-reaching ramifications on Africa in the sense that it explains the predisposing and precipitating cause of political instability in the continent. This has become evident in the incessant arms trafficking, political rebellion, assassinations, and robbery in various parts of the African continent. It is pertinent to remember as stated elsewhere in this study that there are two 'faces' or 'sides' of bribery. Bribery as a form of corruption is a relationship between or among at least two or more entities. We find the above study very illuminating of realities, as it specifically focused on the supply side of corruption as against the demand side that was the main preoccupation of most western scholars. Githongo pointed out that the index was born out of pressure within Transparency International from developing nation members who were concerned that the annual Corruption Perceptions Index focused on corruption in poor countries; that is, the "demand side." These resulted in African countries always being at the top every time. "Pressure then built up within Transparency International to map the supply side of corruption and begin to answer the question of who is paying the bribes that go to developing nations. Githongo emphasized *inter alia*:

At a time when the accountability of global corporations is under increasing scrutiny, the findings of the Bribe Payers Index raise fascinating questions. They also add to suspicions about the effects of globalisation on the developing world," Consequently, it is against these experiences that most countries have attempted to formulate and implement a number

of anti-corruption, conventions, protocols, laws and other instruments, though at various stages of development, Githongo enthused (Sebastian, 2002: 5).

He further questions the capacity of these instruments to significantly affect corrupt behaviour in their current form as revealed by the Bribe Payers Index. Another interesting question here is, if the investor-countries or their agents: the multinational corporations are guilty of corrupt practices such as bribery, does it make any sense to assume that bribery deters their operations in the third world countries, such as Nigeria. One may venture to ask what the correlation between corruption, perception, and direct foreign investment is? Vuuren (2002: 5) has this to say "My overarching observation is that corruption is indeed an important area of concern and that it can play a role in impacting a country's credit rating".

Furthermore, Vuuren stresses that:

Many of the most important political risk analysts other than Standard and Poor's, rank corruption as one of the risk factor (among a group of approximately a dozen), which are quantified. Corruption is used as one of the 20 yardsticks to measure investor confidence in these countries (2002: 5).

Corroborating the point further, Shang-Jin Wei in *How taxing is corruption on international investors* using a sample that covers bilateral investment from 14 source countries to study its effect on 45 host countries during 1990-91 established as follows: "... a rise in either the tax rate on multinational firms or the corruption level in a host country reduces inward FDI." Another significant survey linking DFI and corruption (Bray, 1999) revealed the importance of corruption in investor decision-making. Indeed, according to Bray:

Research findings based on actual incidences where foreign investors decided not to invest because of corruption are hard to come by. Some anecdotal evidence, however, support ranking given to corruption a decisive factor in influencing capital inflows. By way of example, Zimbabwe lost a hotel complex investment worth US\$55.8 million to Zambia when Sun International chose to relocate there in 2000 citing "problems associated with red tape and demands for bribes by those in positions of authority (*Zimbabwe Independent*, 29 September, 2000).

At this juncture, it is worth summarizing in a nutshell how Nigeria had fared in the Transparency International Corruption Perception Index from 2001 to 2007.

An analysis of the performance of Nigeria on the corruption perception research tends to demonstrate that despite the anti-corruption programmes initiated and implemented by the Obasanjo administration, the country was definitely knee-deep in insurmountable corrupt practices. The stupendous level of corruption and other related offences committed by both indigenous and

Table 1. Summary of Nigeria's Scores on the Transparency International Corruption Perception Indexes from 2001 – 2007

Year	Country Rank	CPI Score
2001	90	1.0
2002	101	1.6
2003	132	1.4
2004	144	1.6
2005	152	1.9
2006	142	2.2
2007	147	2.2

Sources: Extracted from 2001 – 2007 Transparency International Corruption Perception Indexes, Transparency International, Policy and Research Department. Berlin, Germany. Assessed from http://transparency.org/org/policy_research/surveys_in_dices/cpi/

foreign collaborators have had a very damaging impact on the Nigeria economy, nay the inflow of direct foreign investment to country

It is due to the political risk associated with corruption in development in developing countries that stimulates the interest of these countries to pursue anti-bribery initiatives. Such mobilization against corrupt practices and related offences in Nigeria have taken the form of "War Against Indiscipline", "War Against Indiscipline and Corruption" (WAIC), "Ethical Revolution", "Operation-Kick-Out-Corruption." The government has established certain institutions to enable the implementation of anti-corruption crusade. They include the Economic and Financial Crimes Commission (EFCC) Act 2002, The Corrupt Practices and Other Related Offences Act 2000, and as amended in 2004 which set up the Independent Corrupt Practices and other Related Offences Commission, and Code of Conduct bureau. It is expected that these institutions will contribute in building transparency and accountability in the Nigerian business environment. This condition is expected to attract direct foreign investment into the country.

Anti-corruption programmes under Obasanjo

It is important to observe that the war against corrupt practices and other related offences in Nigeria was instigated as shown in the country's frequent appearance at the top of the world's most corrupt nations Enweremadu enthused:

Between 1999 and 2003, Nigeria occupied either the 1st or the 2nd in Transparency International's survey of the most corrupt countries of the world ...This became not only embarrassment to the Nigerian officials travelling overseas, especially President Olusegun Obasanjo who was himself

one of the founding members of Transparency International (Enweremadu, 2010: 5).

Again, corruption had become an

... [O]bstacle to the governments much desired goal of reconciling Nigeria with international community, after many years of diplomatic isolation, of securing debt forgiveness and much needed foreign investments. (Enweremadu, 2010).

Other factors included negative international publicity against Nigeria with regard to increasing concern about lack of good governance and its consequences in developing countries; threat by international community to impose sanctions against Nigeria if Obasanjo does not put in place adequate measures against corruption and other forms of financial crimes. Indeed, Nigeria was promised a possible debt write-off, which was eventually effected by the write-off of \$18 billion, representing 60 per cent of Nigeria's debt by the Paris Club in early 2005.

President Obasanjo instituted a number of anti-corruption programmes of which the most understanding were the Independent Corrupt Practice Practices and Other Relation Offences Commission, the Economic and Financial Crimes Commission, Code of Conduct Bureau, reforms of the police and the judiciary. Others included: a vigorous international campaign to redeem the battered image of the country, and the recovery of stolen funds abroad allegedly looted by public officials; and, in some cases in complicity with the multinationals.

The Obasanjo administration complemented these measures with signing and adopting several anti-corruption laws and international treaties, sacking of some prominent officials accused of corruption, establishment of ad-hoc commissions of enquiry to probe specific allegations of corruption. The administration undertook the use of mass media (particularly through the National Orientation Agency) to sensitize the citizenry on the ills of corruption and other related vices on the social and political economy of the nation. It is within this context we examine first, the Obasanjo succeed in reducing these vices from the country; and, second the challenges the administration encountered in doing this.

The ICPC which inaugurated in September 2000 was given the mandate under Section 6(a) to (f) of the ICPC Act among others to receive and investigate complaints from members of the public on allegation of corrupt practices and to arrest and prosecute those responsible; to examine the practices, systems and procedures of public bodies, and in cases where such systems aid corruption, it would direct and supervise a review. According to Enweremadu (2002), the ICPC 'would instruct, advise, and assist any officer, agency or parastatal of government on the ways fraud or corruption may be **eliminated**' (emphasis mine). The above mandate in terms of practice is hardly implemented on a scale that would eliminate corruption in Nigeria. Nevertheless, the ICPC during the period under study

took steps to implement its mandate. In the first year four individuals were arraigned before the law court for various corrupt practices (in a country of over a hundred million people). In the second year the number rose to a miserable 23 and 49 people in September 2003. By 2006, December the ICPC had prosecuted 185 persons in a total of 91 cases in a country demonstrably driven by political, bureaucratic, and legal dimensions of corrupt practices and other related offences. The question to ask is how many convictions were made during this period and **who** were involved in those case? Due to the abysmal performance of the ICPC and the mounting pressure from the people the government established the Economic and Financial Crimes Commission (EFCC) in April 2003. Enweremadu (2010) posits that the arrival of the EFCC brought some improvement in Nigeria's fight against in two significant ways:

- i. Whereas, the ICPC was constrained by the limited coverage of its Act which provided that it can only investigate corruption involving public officers, and which acts must have occurred after to the inauguration of ICPC, the EFCC is endowed with the wider powers and responsibilities, which include conducting investigation of crimes of financial and economic nature, including corruption, money laundering, advance fee fraud (419), bank fraud, etc., whether in the private or public sector. The EFCC also has the power to arrest and prosecute the perpetrators of such crimes.
- ii. The differences in approach – whereas the ICPC adopted the slow bottom-up- approach, pacing emphasis on public education, the EFCC adopted a more aggressive measure like arrest and prosecution of high profile individuals, as well as favoured a more confrontational approach to corruption.

Little wonder, the EFCC achieved more than the ICPC in the fight against corruption as is shown elsewhere in this study. But suffice to note that between April 2004 and June 2006, the EFCC recovered over \$5 billion (₦725 billion) from financial criminals, both in form of cash and assets. As noted earlier both the ICPC and EFCC encountered certain challenges in carrying out the task set for them; namely: institutional, and political. The institutional dimension encompasses a chronic shortage of funds and inefficient judicial system. Enweremadu has this to say:

For the first five years of its existence ICPC got an average of 500 million or \$3.8 million in yearly budgetary allocations. Persistent demands by the ICPC for more for more were either turned down by the government ... or met with promises of increased funding in subsequent financial years that never materialised (Enweremadu 2010: 12).

Accordingly, the persistent lack of funds translated to the inability of the ICPC to hire sufficiently qualified manpower to handle its cases in the law courts. The slow pace of the judicial system in Nigeria to a large

extent compounded the speedy administration of the justice system in the country. In most cases technical nuances are employed by both the prosecutors and defendants to delay, adjourned and scuttle the speedy and fair delivery of justice.

Obasanjo has been accused of employing the ICPC and the EFCC to destroy political opponents, more especially during his second tenure in office. The unending tirade between Obasanjo and his erstwhile Vice President was given the precipitating reason for allegations of corruption against them. Hence, the EFCC was unleashed on Vice President Atiku and his political and business associates, with a view to incriminating them upon which they will not be eligible to contest for offices in the 2003 General Elections in the country. Concluding, Enweremadu asserted that

... Obasanjo anti-corruption fight was ... politicised, especially towards the end of his second term in office, when it was employed to destroy his political adversaries, such as Vice President Atiku Abubakar without regards to constitutional rights and due process. The question of whether corruption was not increasing even under a regime that was supposedly fighting corruption was also raised just as there were arguments about whether the campaign was against corruption was not originally designed to please the international community (Enweremadu 2010: 22 - 23).

Furthermore, both the Federal and State Government in collaboration with international bodies have taken steps to either recover stolen monies, and/or penalize corrupt practices and other related offences. These also include steps to boost the confidence of foreign investors to do business in Nigeria, a sample of these steps are discussed below:

i. Nigeria ratified the United Nations Convention against Corruption in December 2004 and the African Union Convention on Preventing and Combating Corruption in September 2006.

ii. President Olusegun Obasanjo on his Second Coming seemed determined to fight corruption, and lot merely paying lip service. Soon after inauguration on 29th may 1999, the administration began to endorse measures which demonstrate the needed "political will" to combat corruption. The privatization of public enterprises and state-owned companies, which served as major drainpipes of scarce public funds, was commenced in earnest. In conjunction with the National Assembly, the anti-corruption bill (the Corrupt Practices and other Related Offences Act 2000) was passed into law.

iii. The BBC Monitoring Service of the August, 4 2004 reported that the International Monetary Fund (IMF) had initiated action to repatriate to Nigeria funds stashed in

foreign countries by corrupt Nigerian leaders. The IMF has agreed to do so having evaluated the apparent genuineness of the Obasanjo anti-corruption crusade since 1999.

iv.

In Lagos State, the Economic and Financial Crimes Commission (EFCC) officials is reported to have arrested at least five persons who were impersonating top officials of the Federal Housing Authority in their attempt to dupe innocent businessmen of over 100 Million Naira, by issuing Local Purchase Order for the supply of Building materials (*Guardian Newspaper*, 15 March 2004).

v.

On the recommendation of the National Judicial Council, President Obasanjo approved the dismissal of Federal High Court Judge, Justice C. P. N. Selong on proven charge of corrupt practices materials (*Guardian Newspaper*, February, 26 2006).

vi.

The (*Guardian Newspaper* 24, February, 2004) further reported that three Nigerians accused of defrauding a Brazilian bank of 36.3 Billion Naira were denied bail by an Abuja High Court presided over by Justice LawalGummi. The bail was refused on the ground that the suspects would jump bail if granted, as the fraud was describe as the single biggest case of Advanced Fee Fraud in the world.

vii.

The searchlight on corrupt practices was also directed at the Nigeria police, as the Police Service Commission, apparently disturbed by widespread allegation of fraudulent practices by the Police hierarchy, by probing the Inspector General, Mr. Tafa Balogun and State Police Balogun was accused of series of corrupt practices, arrested, tried and jailed.

viii.

As at 29 April 2002, not less than 16 prominent Nigerians had been prosecuted before the Independent Corrupt Practices and other Related Offences Commission over various malpractices. President Olusegun Obasanjo declared this during his stock taking of his anti-corruption crusade.

P

The Challenges of Corruption on Direct Foreign Investment in Nigeria

i.

There is no gainsaying that corruption is among others, a contributory factor of the underdevelopment of Nigeria. Its prevalence is very pervasive: it attacks the productive, social and other political sectors. In the productive sector, its impact is noticeable in the distortion and misallocation of the economy

T

ii.

It permeates legislation on matters like tax incentives, tariffs, and the issue of licenses for products, granting

industrial sites and the activities of customs and excise officials checking the importation of industrial raw materials and domestic output of industrial goods by local factories. Some of such legislation tended to frustrate the transfer of finance capital, as well as delay in approving the establishment of direct foreign investments in the country. It was to solve part of the problem that the Nigerian Investment Promotion Commission was established as a "one-stop" agency to approve with minimum delay application for the setting up of direct foreign investments in Nigeria.

iii.

The institutionalization of corrupt practices and other offences in the economic life of Nigeria seems to have been facilitated by the 'contract award' system. The situation has been worsened by its politicization; whereby, contracts are awarded on the basis of political affiliations (sometimes, with string of 10 per cent gratification attached). It is logical that such an "understanding" will result in the delivering of substandard or outright abandoning of the requisite infrastructure such as roads and electricity. The present situation in the country is very pathetic with regards to roads and electricity procurement and maintenance. Most roads have remained dead traps for especially heavy-duty vehicles. Electricity outages are the order of the day, and consumers are forced to pay for service not rendered. The Power Holding Company of Nigeria is holding the electricity consumers hostage, since, the company is more concerned with generating electricity bills than power. A bill for an upcoming month is demanded in the first week of that month, and of course, the consumers are at pains to pay for what is not offered them.

iv.

Arising from the above, we find businesses expend a substantial part of their working capital on the procurement and maintenance of electricity plants. The cost of buying fuel is for these plants are enormous. It eats deep into companies' profits. Consequently, some companies either operate at under capacity utilization or are shut down. In some cases, the low voltage-electricity transmitted to private and industrial consumers' cause damages to their appliances and equipment. It may be suggested that, there is a conspiracy by makers, importers and foreign generating sets manufacturing companies to accentuate the ineffectiveness of Power Holding Nigeria companies, in order to profit by the large market its poor services precipitates.

v.

Again, the country is flooded with substandard generating sets, which have further compounded the problems of both indigenous and foreign companies. It is also instructive to ask, what stops these manufacturing companies, based in China, Taiwan, Japan, Korea, etc, from establishing actual manufacturing branches in Nigeria, rather than setting up assembly outfits? Above

all, they collude with indigenous importers to import substandard machinery into the country. The logic of capitalist development would not have suggested otherwise, as Nigeria remains the largest market for electricity generating sets in the world.

vi.

The Chairman of the Economic and Financial Crime Commission Nuhu Ribadu asserts that corruption and mismanagement swallow about 40 per cent of Nigeria's £20 billion annual oil incomes. Ribadu pointed out that, at least 100,000 barrels of 4 per cent of national oil exports are stolen every day in Nigeria (*Daily Trust*, Abuja 20 November 2003). In a statement, "Corruption, Bane of Economic growth" (a key note address at the first ever organized economic and investment summit), the former Finance Minister, Okonjo-Iwela attributed lack of transparency and high-level of corruption in government businesses as the problems confronting the economic growth of Nigeria. The erstwhile Finance Minister admonished that "unless and until we make significant in road to the issue of transparency and corruption, rural business will be difficult, whether it is domestic or foreign" (*Daily Trust*, Abuja 20 November 2003).

Multinational Complicity in Corruption in Nigeria

A sample of cases of the unholy alliances and collaborations between indigenous business/government officials and foreign businesses and governments and their agents is given below:

i.

The British Broadcasting Corporation (BBC) in a *BBC News Summary* of June 11, 2004, reported that shell petroleum had admitted of inadvertently aiding and abetting corruption practices through its oil activities in Nigeria.

ii.

Daily Independent Newspaper of 1st August 2003 reported that an assistant executive officer and an expatriate staff of Halliburton were accused by the Federal Inland Revenue Services (FIRS) of defrauding in tax revenue. The alleged fraud was uncovered in the US by some officials of the parent group, a charge they however denied complicit of the senior officers.

vii.

Three former Nigerian cabinet ministers and two other former government officials were charged with accepting part of more than \$1million in bribes from France's electronic giant SAGEM S A. The accusation emanated from the interception by the British officials at the Heathrow Airport of a Nigerian with a brief case containing \$2,000,000 amid suspicion of terrorism.

viii.

Following the investigation into the Halliburton case, Jeffery Tesler, a British lawyer, who had served as the consortium's agent in Nigeria and the central figure in the

alleged bribery scandal in his deposition to investigating judge, agreed that he made payments to Nigerian officials, including two \$75,000 transfers to M. D. Yusuf, chairman of the company that had awarded the original contract to the consortium.

From the above excerpts of reported cases of corrupt practices and related offences we have discovered that corruption has found a place in Nigeria due to a closely knit collaboration between the indigenous and foreign bourgeoisie. Even the much talk about Advanced Fee Fraud (419) would not have taken place without the intention of the victims (accomplices) desiring to be part of the plundering of the nation's swindled of the money. If they have been successful, no Western countries and its allies would have made it a public policy issue worth considering for legislation.

SUMMARY AND CONCLUSION

Corruption has been acknowledged as the single most important factor militating against economic progress and democracy in Nigeria. This is manifested mainly in the form of bribery and embezzlement of public funds, and advanced fee fraud, activities of dubious internet scammers, settlement, among others. This phenomenon contributed immensely to the collapse of both the First Republic (1960-1966) and the Second Republic (1979-1983).

The Obasanjo administration since inception has taken steps to reverse this trend. Those reforms have been addressed in this paper. We conclude that corruption is not peculiar to Nigeria. It is found in almost every nation on earth. However, it is the prevalence of corrupt practices and other related offences that is worrisome. It is true that direct foreign investments cannot thrive in a corruption-infested environment because it denigrates the social economic and political fabric of the Nigerian society, to the extent that Nigeria is a suspect in the comity of nations. Where the business, political and economic environment is unstable, it will be naïve to expect foreign investors to invest in the country. And, where requisite infrastructures are either poorly delivered, or virtually non-existent, the competitiveness of its economy will be very low. Hence, direct foreign investments are likely to be attracted there. The study has amply demonstrated that it wrong to suggest that Nigeria is the only culprit. It takes two to be able to do business in Nigeria due to complicit role in corruption by their counterparts.

What should be done?

a. The concept of corruption as a legal, a socioeconomic and political phenomenon should be clearly defined,

taking into consideration our cultural underpinnings. The Act enacting the Independent Corrupt Practices and Other Related Offences Commission should clearly demonstrate the multifarious nature of corruption and other related offences. Appropriate sanctions for engaging in them must be invoked irrespective of who is involved. The law must always take its course as demonstrated in the case of Tafa Balogun and a few others, even though a lot still remains to be done to sanitize the society. It is by doing so that direct foreign investments can be attracted to Nigeria. The various anti-agencies in the country should be given more powers.

b. The immunity granted certain public officers should be removed. Occupation of public office should not be regarded as a license to loot government treasury. Removal of the Immunity Clause from the Nigerian Constitution would largely assist the anti-corruption agencies tackle corrupt and other related vices committed by public officers now rather wait for such officers to vacate office at the end of their tenure before initiating actions against them.

c. Once a contract is awarded, it should be strictly monitored and evaluated in order to ensure that any deviation from specifications or non-performance should be adequately contained.

d. Service delivery agencies should ensure that the consumers enjoy full value of what they are paying for. In this respect, the importation of recycled or out-dated machinery, spare parts, and other equipment must be outlawed and culprit adequately penalized

e. The government should orientate the people to perceive corruption, not as way of our life, but as something that must be abhorred.

f. The customs, police and immigration departments should be overhauled and corrupt official relieved of their duties.

g. The activities of advanced fee fraudsters, and other dubious internet scanners should be closely monitored, and culprits appropriately punished.

h. The provisions of the law on money laundry should be made more effective, and nobody should be above the law.

i. Foreign governments and international financial institutions should assist Nigeria in locating and repatriating looted monies from the country by present and public officers.

j. The citizenry should become conscious of a new trend in corruption; legal corruption whereby the political class used legislation to legitimate hitherto confirmed corrupt practices, thereby criminally appropriating vast financial resource to them. These include approving stupendous salaries and allowances, approving incomprehensible amount of money as security votes for the President and the Governors, whereas the security situation in the country does not give credence to such financial appropriations.

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