

**ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)
AND FINANCIAL CRIME/CORRUPTION IN NIGERIA: A
CRIMINOLOGICAL ANALYSIS**

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ABSTRACT

This research essentially examines the financial crimes and corruption in Nigeria and the role of the economic and financial crimes commission (EFCC) in combating it. From the reviewed literatures and survey conducted, it was established that there is financial crimes and corruption in Nigeria and structural functional analysis theory was used because of its prospect of providing a scientific and value free knowledge. The linkage determines the influence and effects of corruption politics in the process. Also, the challenges confronting the EFCC and her activities were highlighted and the means through which they can be improved were equally recommended, at the same time the role of the citizen in making the fight against crime and corruption effective was equally identified. Recommendation that would assist the EFCC to improve its activities were highlighted

Keywords: Financial Crimes, Corruption, Nigeria, Criminology.

INTRODUCTION

Economic and financial crimes represent a dangerous form of criminal behavior that affects not only individual member of a society but also having deleterious effects on the economic, health and material welfare of the community as a whole. Economic and financial crimes are non-violent criminal practices which are tantamount to sabotage of the national economy. This paper examines the general consequences of financial crimes and corruption especially money laundering on the economy of the developing countries using Nigeria as a case study.

Historically, corruption exists everywhere in the world, but its effects are more devastating in the developing countries such as Nigeria. Those who pay and receive bribes appropriate the nation's wealth, leaving little or nothing for its poor citizenry.

Criminologists find it difficult to unanimously put corruption under one type of crime. In his *Corporate Crime*, Talwar (2006) identified corruption as a form of corporate crime. Croall (2010), on the other hand, placed it under 'white-collar crime', while Abadinsky (2007) and Holmes (2010) agreed that corruption and organized crime are intertwined, because organized criminals resort to corruption to conduct their illegal businesses. Holmes (2010) maintained that, these criminals consider bribery (one of the multiple tentacles of corruption) as a tool to connive with the police and other corrupt officials in smuggling drugs, trafficking in humans and illegal arms. With the increasing globalization, corruption has a thrust in transnational crime today. In a nutshell, corruption is a problem with tendency to take place with in social, economic and political spheres; at national and international levels; associated with other crimes, like organized crime; and with multiple types, forms, and dimension Corruption phenomenon is a Frankenstein: of course, poverty, unemployment, militancy, violence, etc. in West African states are argued to be exacerbated by corruption (Felbab-Brown, 2014). Thus, Croall (2010) contended that, the extent of corruption is particularly difficult to explore a sit involves both victimless and predatory offences. Croall further observed that, it also involves undue gratification in local authorities, public sector, political spheres, and in commercial organizations, infringement of occupational health safety; car safety; pricing offences, counterfeit goods, marketing malpractice, food frauds or food safety, environmental crime, etc. Abdullahi (2011) made similar remark by admitting that, corruption can take place in various contexts. In terms of work environment, for instance, it can take place within the context of public organisation, private organization, politics, etc. In line with Croall and Abdullahi, Dukku (2012) also opined that corruption has multiple forms and dimensions.

The objectives of this paper are to: conceptualize corruption, highlight the typology of corruption, discuss the extent of corruption in Nigeria, give the causes of corruption, review some theoretical explanations, give some consequences of corruption, and assess the measures taken by the Nigerian government in combating corruption. Upon these discussions, a condensed passage will be drawn and then conclude at the tailend of the paper.

Conceptualizing Financial Crime/Corruption

There are many literatures that made attempt to define Financial Crime/corruption with varying degrees of successes. However most of the writers defined it as enriching one self by public officials (Tresiman, 2000; Lambs dorff, 2007), while some conceived it as an unlawful act that involves both public and private agents (Marshall, 2013). Those that conceived corruption to be an affair deviating public office defined it as the 'abuse of public power for personal gain' (Morris, 2011:3) or as "them is use of public power for private benefit"(Lambsdorff,2007:1).According to Marshall (2013.p.4), corruption can be defined as "circumventing formally agreed or implicit rules for decision-making (in the public or private sector) by use of personal inducements in order to achieve institutional and /or personal objectives." The above definition contains two visible elements:

(I) private corruption as well as public corruption, and (ii) matters that are not necessarily unlawful, depending on the jurisdiction involved, but which docontravene either the laws of other jurisdictions, or other generally agreed principles of fair behaviour. Marshall gave this definition in order make it particularly well suited for use by the international law, to be applied upon Multinational Corporations. Thus it would be seen that the definition conveys the need for a more consistent standard than may be provided by the domestic laws of the host countries.

Lambs dorff (2007) was so ambivalent in his attempt to define corruption. While he ascribed to Andrig & Fjeldstadt's (2000) definition that, corruption is an exchange of favors between two actors, an agent and a client, but he later contended that, any definition of corruption must involve public officials. Lambs dorff's (2007) argument can be refuted in view of the rapid economic structural transformation many countries of the world are undergoing. In this era of widespread privatization of government services and former government owned monopolies.

A closely related instance is the Nigeria's widespread corruptions candals amongst officials in the public and private sectors; ministries and parastatal, banking, oil and gas industries. In the recent months, more revelations are made concerning corruption in these organizations that the new government is presently embarking upon probing the situation (Wakili, 2015). After privatization, bribery in the power sector has drastically increased. From experience, the junior staff in the PHCN (Power Holding Company of

Nigeria) are making arrangements with consumers to connect without the knowledge of the management. Even the bill pattern has changed because there is somewhat deliberate creation of scarcity of reading metres, because the direct bill gives more profit. Despite its imperfection, the Lambs dorff's definition has a striking utility in this context, especially his illustration of a "principal", an "agent" and a "client" in the corrupt business. The agent, according to Lambs dorff, is entrusted with power by his/her superior, the principal. The principal delegates a task to the sub ordinate, his agent, and sets up the rules as to how this task should be fulfilled. The agent is supposed to serve the client in accordance to these rules. Bribery, extortion, embezzlement, and fraud in the public sector are variants of corrupt behavior, amounting to the agent "defecting" from her/his rule-bound behavior. Indeed, Nigeria is threatened by the corrupt tendencies of the principal, agent and client In many occasions, connivance of the three is necessary to perpetrate corrupt practices. However, there are rare cases in which the agent extorts money from a client, or client bidding a bribe in anticipation of favors, or the principal officer instructing the agent to collect the bribe from the client.

Theoretical Framework

In any scientific research, facts are analyzed within a given frame of reference, which serves as a theoretical guide for a particular study. For this purpose, this study adopts as its theoretical framework the structural functional analysis developed by Gabriel Almond.

Structural functional analysis can be said to have originated in the biological and mechanical sciences. The basic analysis of this theory is that all systems have structures which can be identified and that the parts or elements of these structures perform functions with the system which have meaning only in terms of the working of the system. They are dependent on the system as an active entity for their existence, and are, in turn, linked in such a way dependent on each other for their activity.

Almond (1954:16) maintained that all political system has four main structures which may be defined as legitimate patterns of interrelation. Some structures may be more specialized than other, that is, perform fewer functions in the system. Secondly, whatever the differences between system and structure, the same political functions are performed in all political system. Thirdly, the political structures perform a number of functions, which are

'multifunctional'. And finally, in the sense that all political systems, as parts of societies, are characterized by a culture, the culture is always a mixture of modern and the traditional.

The structural functional analysis is useful in this study because EFCC is a structure set-up by ruling political elite with the mandate (functions) of checking financial and economic crimes in the society. Thus, EFCC as a structure is established to perform certain functions in the society. The Commission as we know is responsible for:

The enforcement and the due administration of the provisions of this Act; the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, tortures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc; the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority: the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds; the adoption of measures to eradicate the Commission of economic and financial crimes; etc (EFCC Establishment Act 2002:1),

These functions if carried out will help in the development of the nation and ensure sustainable development. But often, these functions may be suppressed by the ruling class in the society; because even as the fight against corruption is going on, politicians are totally involved in it, much wonder every day we read cases of corruption for example Mr. James Ibori's (former Governor of Delta State) 103 counter charges of abuse of office, corruption and money laundering before the Kaduna, Federal High Court and even his attempt to bribe EFCC officials with the sum of \$15 million, the case of the Former Speaker, House of Representatives over the N628 million contract renovation and also the Police Equipment Fund which was poorly managed by politicians.

Talcott Parson (1953:58) an American Sociologist noted that the social system is made up of subsystems which work interrelatedly. These include, political, economic, social, religious subsystem, which collectively perform functions that ensure the stability and progress of society. He contended that social system is based on functional pre-requisites which ensure that subsystem work for the stability and harmony of the society, these are: adaptation, goal attainment, latency and integration.

Goal attainment is undertaken by the political system through the provision of societal values and norms for the functioning of the society. The EFCC is a subsystem of the social system whose major function is to enthrone the culture of probity, accountability and transparency in public life. The success or otherwise of the EFCC is predicated on the contributions of the economy (adaptation) legal system (latency) and culture (integration).

Similarly, Robert Merton (1960:62) reminded us that the functionality of any system or subsystems can be divided into manifest (intended) and latent (unintended). The EFCC's manifest role is to fight against corruption and economic crimes while it could also be used to settle political and/or personal squabbles. As an institution, the EFCC perform both manifest and latent functions as evident by the success recorded in the fight against fraud (419) and other form of economic sabotage as well as political victimization during the 2007 election.

The theory is adopted because of its prospects of providing a scientific and value-free knowledge. Using this approach, the profound insights into the success and constraints of EFCC in the war against corruption would be obtained. The theory is therefore chosen because it will provide reliable, objective, systematic and coherent knowledge on the subject matter.

Corruption in Nigeria

It is true that corruption has got strong hold in Nigeria and it is a lingering social deviation which permeates all levels, regions and tribes. Regrettably, the Nigerian type of corruption knows no age or sex differences: men and women of all ages can give and take bribe without shame. As asserted by Ogunwale (2012), problem of corruption in Nigeria is internationally acknowledged as the country is considered to be one of the worst in corrupt practices world over.

The observation that corruption thrives in Nigeria is a reality because it has

become part and parcel of many people's culture or tradition in Nigeria. This is why Dukku (2012) warned that, corruption as a deviant act can become part of people's day-to-day interactions which have been taken for granted.

For him, this is symbolizing or manifesting in some of the loosely applied words and connotations used in everyday language of interacting, such as: *Alfarma* (gift or favor), *egunje*, *goro* or *Igbuozu* (Kola), as well as *badawaniabu* (giving something) or *yiwani abu* (do something). It is discernable in these catch phrases that, because of obsession for bribery, Nigerian people have even manipulated the meaning of the English word "kola" which might either be a "tree that bears bitter fruits" (known as *goro* in the native language of Hausa and *igbuozu* in Igbo) or bribe.

It is difficult to read through news paper, be it daily or weekly, without scanning something related to corruption, especially on revelation about previous misconducts by former governors (Mutum & Mohammed, 2015, p1-5), misappropriation of public properties by governors' wives (Sadiq, 2015); in ministries (Mutum, 2015); those associated with law enforcement agents, military and paramilitaries, such as Police and Federal Road Safety Corps (Musa, 2015); and those in the oils and gas sector (Alghazali, 2015; Bamgboye, 2015). Corruption is so rampant in Nigeria that Abdullahi (2011) states, it occurs a tall tale of government. In addition, it also takes place in all the three arms of government-executive, judiciary and legislatures. However, corruption in local government councils or at the grassroot level, when compared with that perpetrated by political and bureaucratic elites, is not a corruption (Ribadu, 2007 as cited in Amuwo, 2012), rather it is an organised crime carried out by neglected escapists in the local areas.

Explanation on Causes of Corruption

There are many important studies that provided explanations on the causes of corruption in Nigeria. Ulu (2009) mentioned eleven factors responsible for widespread corrupt practices in the country. These are; selfishness, greed and ostentatious lifestyle, pressure from home front, pressure from the larger society, fear of poverty, lack of adequate social welfare system, extreme ethnicity and unpatriotism, availability of safe havens, lack of political will, apathy on the part of most citizens, and invisible factor (evil spirit). Nwaze (2012), on the other hand, identified five reasons why corruption has

become an endemic social problem in Nigeria which include; weak institutional enforcement framework, commanders without army (disconnect between leaders and followers in Nigeria), lack of ethical standards in governance, poor reward system and extended family.

Consequences of Corruption

As the predominant part of organized crime, corruption has a fierce impact on economic, political and societal development (Dimant,2013). As Czarnota(2007) claims, it is undeniable that the overall effects of corruption are generally damaging and devastating. The negative effects of corruption cannot be confined to a single community ;it has potential for affecting a country or an entire continent, as in the case of Africa, or the world at large. Among other consequences, corruption erodes credibility in governance, promotes mediocrity, corrodes public confidence and misgivings between leaders and followers, retards the development aspiration of a country, threatens the foundation of democratic ideals, breeds violence and conflicts, increases poverty, and unemployment.

Corruption and governance lie on a continuum but occupying opposite poles. Whereas governance, with its end goal of creating a good government, aims to serve the interest of the people, corruption, through the use of public office and resources, serves the narrow interest of family and allies (Balboa & Medalla, 2006).

From a moral point of view, corruption of any kind has a corrosive effect on the public confidence in the legal process and encourages lack of accountability which can over time lead to a breakdown of the rule of law. Once the legal framework is either side-stepped or ignored the immediate consequence is living in anarchy. As we are experiencing in Nigeria, the former president Obasanjo claimed that Nigeria at the threshold of the third millennium had relapsed into the Hobbesian state of nature where life is "brutish, nasty and short". As he lamented: *...I saw little more than confusion, greed, corruption in high and low places, selfishness, pervasive lawlessness and cynicism. The very state itself to which we are all required to be loyal, had become a state full of malice and meanness. Public officials appeared to have forgotten what selfless service meant. Private Citizens felt a profound distrust of it not hatred for the state. (Obasanjo 1999, quoted in Igwe, 2010: 120).*

ESTABLISHMENT OF EFCC

The EFCC was established by an Act of parliament in 2002, which was later repealed and another Act enacted in 2004, under the President Olusegun Obasanjo's administration. The Act mandated the EFCC to combat financial and economic crimes. The Commission is empowered to prevent, investigate and penalize economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes. The 2004 EFCC establishment Act was passed by the National Assembly and thereafter assent was given by president Olusegun Obasanjo.

Summary and conclusion

Summarily, corruption is a worldwide problem, but it is more widespread among developing nations and it contributes in their progression of these nations. The meaning, typology, causes and consequences of corruption defied universality or uniformity. Simply, corruption is any abuse of position, misconduct, or illegitimate exchange of favours between individuals, groups, or organisations. It is caused by many factors, such as greed, weak institutional capacity, family and friends, and immediate community's pressures, among others. Broadly, economic and political causes are discussed in detail.

Four suggestions are made in this paper. Firstly, with the aid of modern information and communication technology, there are now many ways of monitoring the activities of individuals and groups suspected of any fraudulent activity. Combination of electric and human surveillance must be adopted for complementarities, lest the electric surveillance lead the authority to underestimate the function that is to be performed by humans. Sometimes, people can manipulate the inanimate machines, but not humans.

Secondly, given that crime (or corruption) was a function of relative deprivation, the obvious way to ease the crime problem is to create more opportunities for the poor, so that they had better chances of legitimately achieving material success, at least, making a living. Thirdly, not all kinds of people shall be given a task in the criminal justice. Proper screening must be done before appointing candidates including those in the judiciary because only a 'good' person can make a 'good' job. After appointing these individuals perceived to have firm principles, then the government must give them climate of autonomy to enable them properly exercise justice. Lastly, severe

punishment as a response to corrupt practice will prove effective if adhered to. Not only that the embezzled money or expropriated properties would be recovered, but the monetary charges (fines/amercement) should be coupled with physical punishments or imprisonment.

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