ANTI-CORRUPTION ENFORCEMENT AND PUNISHMENT IN NIGERIA: THEORY AND EVIDENCE.

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ABSTRACT
On May 29, 1999 at the birth of Nigeria's 4th Republic, the then Nigeria Government promised to eradicate corruption from all facets of the Nigerian Society before 2007. Sixteen years later on May 29, 2015, the Government acknowledged the pervasiveness of corruption. Alternative theories put forward to explain the phenomenon of pervasive corruption in Nigeria has focused on weak anti-corruption enforcement that encourage impunity. This is because the enforcement environment which emphasize punishment through legal convictions seldom work due to political and other constraints. It is shown here that theory and evidence from Nigeria suggest that in addition to anti-corruption enforcement, a new strategy that shift attention to corruption prevention measures would be more promising.

Keywords: Pervasive Corruption Enforcement Punishment Prevention

INTRODUCTION

From these three theoretical perspectives have emerged three broad suggestions for the eradication of corruption that has been the basis of official Government anti-corruption policy in Nigeria since 2002. According to Enweremadu ( 2010:6), these are the creation of specialized anticorruption agencies - the Independent Corrupt Practices and other Related Offences Commission, (ICPC), in September 2000 and the Economic and Financial Crimes Commission, (EFCC), in April 2003 - to investigate and prosecute corrupt individuals. This is in addition to the Code Of Conduct Bureau (CCB) created in 1990 (Human Rights Watch, 2011: 9).
The other two included a comprehensive anticorruption reform of the public services, including the judiciary and an international campaign directed at stopping the flow of stolen funds abroad as well as the recovery of funds already stolen and stashed away in foreign banks. In addition, between 2000 and 2010 the minimum wage rate rose ₦7, 500.00 to ₦18,000.00 - an increase of 41.66 percent compared to the rise of ₦250.00 in 1990 to ₦3, 500.00 which amounted only to 7.14 percent.

Yet the Government of Nigeria has publicly acknowledged that corruption is pervasive. This is the official position of the country’s president on democracy May 29, 2015. Transparency International's corruption perception index ranked Nigeria 16th with a score of - 99.27 percent among most corrupt nations of the world (Transparency International: 2015).

**CORRUPTION ENFORCEMENT AND PUNISHMENT IN NIGERIA: 2002 -2014**

Of the three main anti-corruption agencies including the Police, only the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and other Related Offences Commission (ICPC) have been involved in prosecuting corruption cases in court (Human Rights Watch:2011; Enweremadu, 2010:9).

For simplicity, corruption cases in various courts in Nigeria can be classified into three: self corrupt enrichment by public office holders through embezzlement of public funds, bribery and outright stealing from official teals; swindling acts that undermines economic activities and acts of politically exposed officials especially politicians who have attained political appointive or elective offices.

It has been shown that of the three category of cases, EFCC has prosecuted 1,200 economic related crimes with about over 400 convictions and recovery of $11 billion dollars (Human Rights Watch, 2011:15). In the 3 years between 2012 and 2014, it was also reported that EFCC alone recovered ₦65.3 billion (EFCC:2015).

The ICPC is said to have prosecuted 205 persons and recovered ₦3 billion (Enweremadu, 2010:9).

**Table I**

| Monetary Value of Selected Public Official Corruption Cases (₦Billion) |
| --- | --- | --- | --- | --- |
| Governors | Ministers | Public Career Officers | National Assembly | Total |
| 537.325 | 6.850 | 13.375 | 5.2 | 562.55 |
| 95.51% | 1.2% | 2.42% | 0.94% | 100 |

Table I shows the monetary value of some selected cases being prosecuted by anti-corruption agencies in Nigeria. Of the total monetary value of ₦562.55, corruption among elected Governors and ministers of Government is 95.51 percent and 1.2 percent respectively. Table II also shows the monetary value of all private business corruption prosecuted by anti-corruption agencies.

Table II
Monetary Value of Selected Private Business Corruption Cases (₦Billion)

<table>
<thead>
<tr>
<th>Sector</th>
<th>Oil Sector</th>
<th>Financial Sector</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.9637</td>
<td>3.6</td>
<td>37.6</td>
<td>42.1637</td>
</tr>
<tr>
<td>Percentage</td>
<td>2.2%</td>
<td>8.5%</td>
<td>89.17</td>
<td>100</td>
</tr>
</tbody>
</table>


Of the total sum of ₦42.1637 billion, the oil sector account for only 2.2 percent or ₦0.9637 billion, the financial sector accounted for 8.5 percent while other economic crimes accounted for 89.17 percent or ₦37.6 billion.

ANTI-CORRUPTION ENFORCEMENT AND PREVENTION IN THEORY.
In the literature on corruption, some scholars argued that corruption is an antidote to official regulation that prevents the emergence of a free competitive economy (Del Monte and Papagni: 2001; Mauro 1995; 1998a; 1998b; Ades and Di Tella: 1996; Kahn: 1996). It is argued that existence of regulations sometimes lead to misallocation of resources, wastage and retardation of growth of forces of economic production on which the welfare of citizens depends (Khan: 1996; Amsden: 1989; Rogerson: 1982; Congleton: 1980; Leff: 1979).

Pervasive corruption, it is argued by these authors, suggest general acquiescence and acceptance of corruption by public officials and the general public alike. This indicate that the general regulatory system is against the development of a free competitive market economy. Corruption present conditions for optimizing factor returns as well as equilibrating the returns on the employment of economic factors.

Under this premise, the existence of corruption provide an alternative mechanism through which regulations hampering the development of a free competitive economy can be removed. Corporations engage in corruption in order to enhance the lucrativeness of their business and maximize opportunities for greater income returns hampered by existing official regulations.

But according to Schedler (1999) and Heilbrunn (1999), the existence of corruption interfere with public accountability as public officials in charge of ensuring compliance with anti-corruption regulations are shielded from scrutiny. This provide opportunities for public officials ...
to be willing partners of private businessmen in corruption deals in return for a share of corruption proceeds weakening anti-corruption enforcement. Of recent, attention has shifted away from theories that seek the eradication of corruption through strong enforcement of anti-corruption regulation to theories that seek the elimination of corruption through the prevention of its occurrence as an alternative. Corruption prevention theories seek to understand why in spite of the existence of strong anti-corruption laws and regulations, its eradication remains intractable and poses severe limitation on sustainable development.

In theory, the objective of public expenditure is to promote the production of public goods supplied by private businessmen in whole or in part for maximum social benefits of citizens. Regulatory policies of the State seek to acquire these goods at minimum cost to tax payers. By minimizing cost, State policies hope to save revenues for more public expenditures on maximum social benefits for society which manifests through increased budgetary allocations. But consider a situation where State officials in charge of allocation and regulatory policies are indifferent to the proper execution of regulations because they stand to gain from it. Society 's loss is corrupt officials' gain. Private businessmen and suppliers of public goods benefits by maximizing their income flows that enhance profitability in the supply of these goods through greater inducement of public officials who gains from it as the State loses. Enforcement of anti-corruption enable State authorities recover corruption proceeds but must incur costs in doing this. This expenditures on anti-corruption enforcement impact negatively on the ability of the State to deliver maximum social benefits to citizens and wish to keep this cost as low as possible. One way this can be done is through corruption prevention by adopting policies that minimize cost of corruption enforcement in order to make more resources available for maximum social benefits of citizens. Therefore, theoretical analysis must focus on the optimizing behaviour of both State officials and private economic actors as they maximize their mutual gains from corrupt deals.

The Del Monte-Papagni Theoretical Model
This situation reflects that described by the Del Monte-Papagni model (Del Monte and Papagni:2001). To apply this model, it is necessary to modify some of the assumptions as follows:

State authorities provide maximum social benefits to society through periodic budgetary expenditures. This budgetary expenditures is equal to social maximum advantage derivable by society from public authorities;

Public officials and private economic actors collaborate to gain from corrupt deals but the flow of income from this collaboration is uncertain as a result of existing anti-corruption regulations;

Public officials are in charge of the enforcement of anti-corruption regulations;
Enforcing anti-corruption regulations results in cost that mitigate the social advantage derivable by society; Participants' decision to engage in corruption depends on the maximization of expected income returns from it; State authorities can relax corruption regulations and save on the amount expended on the enforcement of anti-corruption regulations.

Denoting maximum social advantage (MSA) by \( g \), the total amount of public revenue \( Y \), and budgetary expenditures by \( B \), the maximum social advantage derivable by society is given by this mathematical identity:

\[
YB \equiv g = \lambda g + (1 - \lambda)g
\]

In this formulation, \( \lambda \) is the corruption factor. With the presence of corruption, private business men gained from public expenditure that produces MSA but their gain is \( (1 - \lambda) \). Corrupt public officials' gain, is therefore, \( \lambda \). Thus equation (1) describe a situation where MSA is unaffected by the existence of corruption and society derived maximum social benefits. Now consider that budgetary expenditures depends on two factors \( k \) and \( g \) where \( k \) is equal to political investment of political actors and \( g \) is as before the same as SMA. Then we have a situation similar to a Cobb-Douglas production function. The difference here is that while the Cobb-Douglas function describes production of physical consumables and services, it is public expenditures that produces the maximum social benefits for society that is being considered here. Therefore we assume the form of this Cobb-Douglas function is given by:

\[
Y = A \left( (k, (1 - \lambda)g) \right)
\]

In Nigeria, \( k \), is equal to amount spent in acquiring the desired public office which, is for simplicity, normalized to unity. In conditions of pervasive corruption, as is the case in Nigeria, there is no risk in taking \( \lambda \), the amount of public resources lost through corruption because of mutually reinforcing political support of political and public office holders and private business citizens.

The risk public political and public office holders face is discovery and possible removal from office or imprisonment for a time. Therefore, they choose electioneering expenditure levels, \( k \), based on their political objectives which is independent of public revenue \( Y \). But changes in budgetary expenditures, \( B \) is sensitive to corruption as political and public office holders sought to recoup resources spent on winning the particular political or public office.

For public authorities, in order to enforce anti-corruption regulations they incur costs, \( c \), with the probability of successful enforcement equal to \( 1 - c \). It is obvious that \( cY \) increases as the frequency of corruption enforcement activities increase. For simplicity, if we normalize the frequency of corruption activities to unity, then \( cY \) is the absolute cost of anti-corruption measures.
Participants in corruption deals, if undetected, gain $\lambda YB$ but if detected loose $hYB$ through penalties such as incomes losses due to fines and recovery of corruption gains, imprisonment and social stigma. Thus $h\lambda$ is a positive increasing function of $\lambda$.

The crime seriousness of corruption is approximately $h > \lambda$. Here there is no impunity. But if $h(0) = 0$, there is impunity and corruption is pervasive. In actual reality $h\lambda > 0$ since it is impossible to totally avoid corruptive practices. Thus $dh\lambda \geq 0$ where corruption and anti-corruption measures exist.

The expected pay-offs, $E\Pi$, to participants in corruption deals can be written as

$$E\Pi = (1 - c)\lambda YB + c\lambda YB - ch\lambda YB = \lambda YB - ch\lambda YB.$$  

Participants in corruption deals maximize equation (3) with respect to $\lambda$. The first order conditions are:

$$\frac{\partial E\Pi}{\partial \lambda} = 1 - ch\lambda = 0$$

The optimum value of $h$ equal to $m$ is the inverse of the probability, $c$.

$$h\lambda = 1c.$$  

Therefore,

$$m = h\lambda^{-1} (1c) = h \lambda^{-1} 1c$$

The first term on the right hand side of equation (6) measures the relationship between recovered corruption proceeds as a result of corruption enforcement activities of the State and the gains of corruption proceeds by corruption participants while the term on the second term relate this to the cost of corruption enforcement.

Therefore, $m$, may be taken as an index of impunity in corruption enforcement and measures the
strength of corruption enforcement. The higher the value of, m, the lower the level of impunity and the stronger the strength of anti-corruption enforcement. On the other hand, the lower the value of, m, the higher the level of impunity and the weaker the strength of corruption enforcement.

Evidence From Nigeria

In Nigeria, of the four (4) main anti-corruption agencies - the Code of Conduct Bureau (CCB), Code of Conduct Tribunal (CCT), Independent Corrupt Practices Commission (ICPC) and Economic and Financial Crimes Commission (EFCC), only the ICPC and EFCC have provided data on corruption figures and recovery of corruption funds alongside their budgetary allocations.

Table III shows the prevalence of corruption by category of persons in Nigeria. According to Table III, corruption is prevalent among politically exposed persons defined as persons who have held elective or appointive political offices, public career servants, the banking financial sector of the economy and private businessmen.

In the category of elective political office holders are ex-governors and legislators while appointive political office holders are ministers, statutory board and commission chairmen or members. Public servants are career top public officials.

Table III


<table>
<thead>
<tr>
<th>Category of Person</th>
<th>Number of Persons</th>
<th>Value (₦Billion)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ex-Governors</td>
<td>15</td>
<td>146,840,800,000</td>
<td>10.04</td>
</tr>
<tr>
<td>Ex-Ministers</td>
<td>4</td>
<td>7,050,000,000</td>
<td>0.52</td>
</tr>
<tr>
<td>Ex-Legislators</td>
<td>5</td>
<td>8,350,000,000</td>
<td>0.61</td>
</tr>
</tbody>
</table>
It is remarkable that although public official corruption has been the subject of much concern, Table III shows that it accounted for only 13.02 percent while private businessmen accounted for the balance of 86.8 percent. Again, of 55 category of persons that is reported 36 persons or 65.45 percent are public official corruption while 19 persons or 34.54 are private citizens.

The success of corruption enforcement in terms of recovery of proceeds of corruption and the cost incurred is shown in Table IV. While total corruption proceed is shown to be ₦1,354,132,400,000 in Table III, recovery of corruption proceeds is ₦1,004,300,000,000. This represents about 74.16 percent.

The recovery of corruption proceeds from the banking sector is highest with a figure of ₦650,000,000,000.00 which represents about 48.00 percent of total corruption proceed recovered. This is followed by local business/firms with a figure of ₦150,000,000,000,00 or 11.07 percent. In contrast, fines/forfeiture amounted to only ₦135,500,000,000.00 or 2.62 percent. Most of these recoveries are from holders of elective and appointive public offices such as ex-governors, ex-legislatures and ex-ministers of government.

In 2013 and 2014, EFCC reported a total recovery of ₦65,300,000,000.00 without breaking this figure down into sectors as was done previously.

### Table IV

<table>
<thead>
<tr>
<th>Ex-Federal Public Servants</th>
<th>7</th>
<th>6,906,600,000</th>
<th>0.51</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ex-State Public Servants</td>
<td>5</td>
<td>7,275,000,000</td>
<td>0.53</td>
</tr>
<tr>
<td>Banking Financial Sector</td>
<td>8</td>
<td>524,560,000,000</td>
<td>38.73</td>
</tr>
<tr>
<td>Private Businessmen</td>
<td>11</td>
<td>653,150,000,000</td>
<td>48.23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>55</strong></td>
<td><strong>1,354,132,400,000</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Owasanoye, 2014:1
Federal Appropriation Bill 2014

In order to measure the relationship given by equation (6), we shall be taking aggregate budgetary allocations as the cost of corruption enforcement, c, recovered corruption proceeds, h, and the monetary value of corruption, λ as shown in Tables III and IV. For simplicity we shall restrict our calculation to three categories of persons: public office holders (made up of elective, appointive and career public office holders), banking and private businessmen.

**Table V**

<table>
<thead>
<tr>
<th>Category of Person</th>
<th>Monetary Value of Corruption</th>
<th>Recovery of Corruption Proceeds</th>
<th>Budgetary Allocation</th>
<th>Corruption Impunity Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Office Holders</td>
<td>176,422,400,000</td>
<td>135,500,000,000</td>
<td>71,862,485,327</td>
<td>332,652,497,213.568</td>
</tr>
<tr>
<td>Banking</td>
<td>524,560,000,000</td>
<td>650,000,000,000</td>
<td>71,862,485,327</td>
<td>4,744,674,868,322.640</td>
</tr>
<tr>
<td>Private Businessmen</td>
<td>653,150,000,000</td>
<td>150,000,000,000</td>
<td>71,862,485,327</td>
<td>1,363,333,031,889.867</td>
</tr>
<tr>
<td>All Categories</td>
<td>1,354,132,400,000</td>
<td>1,004,300,000,000</td>
<td>71,862,485,327</td>
<td>18,924,410,488,099.802</td>
</tr>
</tbody>
</table>

Source: Calculated from Tables III and IV

According to Table V, public office holders have the lowest impunity index followed by private business men suggesting that corruption enforcement is weak. On the contrary, bank officials has the highest impunity index suggesting that corruption enforcement is strongest in this sector.

**Corruption Prevention**
It is obvious that relying on anti-corruption enforcement as an all out policy strategy in the fight against corruption is inadequate and left much to be desired. It is time to direct attention to corruption prevention.

In this regard recent public budgetary and accounting policy changes, though not considered anti-corruption policies per se, held more promises in checking corruption in Nigeria. The particular policy that readily comes to mind is the general Government Integrated Financial Management Information System, the Treasury Single Account (TSA) and the Integrated Payroll and Personnel Information System (IPPIS). The digitalization and biometrics capture of public payments and public procurement of goods and services recently has prevent large scale theft of public funds. For example, the Integrated Payroll and Personnel Information System (IPPIS) has prevented the theft of ₦185.4 billion and weeded out 60,450 ghost workers from 359 MDAs (Ministries, Departments and Agencies) of public institutions (Akanbi: 2015).

Corruption prevention supplemented by anti-corruption enforcement, therefore, hold more promise in the fight to eradicate corruption and attain sustainable development. This should, according to Okonjo-Iweala (2012:83), be the focus of policy reforms.

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