AN APPRAISAL OF NIGERIAN INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION (ICPC), 2001-2013

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ABSTRACT

This study appraises the Independent Corrupt Practices and other Related Offences Commission (ICPC) as regards fighting corruption in Nigeria. The appraisal covers 2001-2013 with a view to determining the effectiveness of ICPC in combating corruption in Nigeria. The study uses both primary and secondary data. The study reveals that the ICPC is ineffective in fighting corruption in Nigeria. Also, the scorecard of the agency is very negative (-) in fighting corruption under period of study. Besides, the rating by Transparency Internal (TI) shows that corruption has not really reduced in Nigerian body polity. The study recommends among others, that for ICPC to be a proactive anti-corruption institution it should not be starve of fund, adequate and qualified personnel should be recruited, special court should be set up and the Act of the ICPC should be reviewed by the National Assembly for effective performance in fighting corruption in Nigeria.

Keywords: Corruption, ICPC, effectiveness, Nigeria, Scorecard

Introduction

Corruption is a global problem. It is the greatest enemy a country has on the globe. It constitutes threats to good governance, security of lives and properties and the social amenities of the state. Being a global issue, corruption has attracted the attention of various international organizations and the world bodies such as United Nations (UN), Transparency International (TI), Business International (BI) and Bribe Takers Index (BTI) have concerned themselves with the problem of corruption in the world. These organizations have one time or the other measured the level of corruption not only in one country but

on the globe. It is imperative to measure the level of corruption globally to know the necessary action needed to check the problem. Corruption has affected most countries of the world. It is in line with this that Olufemi (2001) posits that "an average of 5% of the world public budgets goes unaccounted for with an estimated loss of over eight trillion dollars annually by officials of different states."

Nigeria is not an exception; corruption "is as old as independence" (Agbo, 2010: 8). The first military intervention in 1966 gave a reason of corruption in the country which made military to intervene in Nigerian politics. Since then, corruption becomes endemic that every other intervention by the military or another attempt at democracy has promised an anti-corruption czar (Agbo, 2010). The rationale behind anti-corruption czar begins with the worrisome of the fact that despite the endowment of Nigeria with abundant natural resources, corruption has affected the Nigerian state so much that majority still live below poverty bracket (< $1 per day). The indices of corruption are monumental and rife across Nigeria. These include; decadent social and physical infrastructure, widespread unemployment, deficient health facilities and services as well as epileptic water, power and communication services offered to the people.

Against this background, President Obasanjo in 1999 presented an Anti-corruption Bill to the National Assembly to fight corruption. The Bill duly passed and assented to; and transformed into the Corrupt Practices and Other Related Offences Act 2000. This Act gave birth to Independent Corrupt Practices and Other Related Offences Commission (ICPC) on September 29, 2000.

The ICPC has been in existence for more than 10 years; therefore, it needs to be appraised to determine its effectiveness and efficiency in terms of fighting corruption in Nigeria. This is because of the fact that the ICPC seems to have made little or no meaningful impact on the incidence of corruption in Nigeria..

Although, literatures on corruption and anti-corruption abound, some of these works focused on corruption in Nigeria. Studies such as Dike (2001; 2010), Alo & Faniran (2005), Falore (2010), Olugbenga (2012) focused on corruption and corrupt practices in family and corruption management, and corruption as a bane in Nigeria. Works on anti-corruption such as Nna and Jacob (2012), Chukwuemeka et. al (2012), Raimi et.al (2013) focused on approach to anti-graft crusade, curbing corruption through good leadership and roles of anti-graft agencies at ensuring accountability and corporate governance in Nigeria. Therefore, works on appraisal of the ICPC are limited and few. Thus, the study examines the ICPC's appraisal in fighting corruption in Nigeria from 2001-2013. In order to achieve this, the study provides answers to the following research questions: what is the nature of ICPC's scorecard under period of study? What factors account for the institution's failure? What can be done to strengthen the agency for efficiency and effectiveness in fighting corruption in Nigeria?

The study is divided into five main parts. Part one introduces the study, part two provides a conceptual clarification of the study; part three elucidates the theoretical framework necessary for the study, part four examines the ICPC and its scorecard while part five concludes and recommends for further studies.

Conceptual Clarification

Corruption definitions are many. It is obvious and therefore, one needs not to work hard upon the point. The truism is that corruption lacks universally accepted definition. However, in a serious academic exercise, definition of key concepts helps to situate and clarify the discussions and understanding of the issue.

Generally speaking, Gyong (2002) argues that corruption is a crime which belongs to a special category of crimes called elite crime. Corruption like any other form of crime involves the violation of existing laws or norms. In this respect, Werlin notes that "if there is no consciousness of legality, there can hardly be a consciousness of corruption because it assumes some forms of legality which are violated

(Mensah, 1986). Corruption is sometimes used as synonymous with bribery, which is defined as "a price, reward, gift or favour bestowed or promised with a view to perverting judgement or corrupting the conduct especially of a person in a position of trust (Alemika, 2002). Bribery is a dimension of corruption, and is not the only reason for an abuse of office. An official may abuse his office for financial gain or for power and prestige within the community. Nepotism in relation to appointment, promotion or favour, or award of contracts to kinsmen may serve to promote the status of official within his community.

Kong (1966) defines corruption as "the extraction and acceptance of payment from private entities by public officials, and the private misappropriation and abuse of public funds. This definition is relatively broad. It covers three sets of corrupt practices: bribery, embezzlement and abuse of public funds, which may include schemes associated with inflated contracts, over-invoicing or under invoicing. Such schemes are used to illicitly transfer public health into "private pockets" through the collusion of officials and suppliers, contractors, or con men and women.

In the words of Otite (1986), corruption takes place "when at least two parties have interacted to change the structure of progress by society or the behaviours of functionaries in order to produce dishonest, unfaithful or defiled situations." Corruption itself is a very diverse social problem and therefore manifest in equally diverse ways. Corruption is hardly ever enforced. For one, the parties who may both be offender will discourage the law enforcement agents from harassing him/her. To this extent, corruption constitutes misuse and abuse of office as well as offences beyond the reach of the law.

In terms of concrete examples, Odekunle (1986) cites the following:

Asking, giving or taking a free gift, or favour in exchange for the performance of a legitimate task, the perversion or obstruction of the performance of such a task or the performance of illegitimate task: hoarding, collusive price-fixing, smuggling, transfer-pricing, inflation of prices, election rigging, illegal arrest for harassment or intimidation purposes, abuse/misuse/non-use of office, position or power, dumping of obsolete machinery or outdated drugs, illegal foreign exchange transactions, legal but obviously unfair and unjust acquisition of wealth, "gilded crimes" certificate forgery, false accounts and claims, diversion of public, corporate or other person's money or property to direct or indirect personal use et. cetera.

For the purpose of this study, the definition given by the Corrupt Practices and Other Related Offences Act (2000) will be adapted. It defines corruption to include bribery, fraud and other related offences like gratification. The Act gives a wide definition of gratification to mean among other things the offer of promise or receipt or demand of money, donation, gift, loan, fee, reward, valuable security, property or interest in property with the intent to influence such a person in the performance or non-performance of his/her duties (FGN, 2000).

Theoretical Framework

The theoretical framework to guide this study is based on the Attainment of Objective Model (AOM) of Evaluation. This model assesses a programme in relations to its goals and objectives. According to Deshler (2006), the Attainment of Objective Model assumes that the success of a programme can be determined by measuring a programme's outcomes against its own goals and objectives. This type of evaluation begins with clarifying measurable objectives and then gathering data that validate the extent to which these objectives have been met. He goes further to say that for this model to be credible, an essential feature should be added, namely, the evaluation of the appropriateness of goals and objectives, given the circumstances and needs of the target beneficiaries.

The model has been criticized by Provus (1971) when he posited that:

If an attainment of objectives evaluation is anticipated, programmes are often tempted to set the goals quite low so that the outcome will be met easily, thus appearing to be successful while ignoring major

challenges...the model has 'black box' limitation in that it tends to ignore the extension process, thereby failing to provide explanations for outcomes.

Despite this criticism, the model is still appropriate for the analysis of the present study. This is because the goals of the ICPC as well as its objectives will be focused upon in order to find out the extent these goals and objectives have been met. Deshler suggested that the evaluation of the appropriateness of goals and objectives will make the model to be more credible; nonetheless, the model still stands out for this study. Since the model looks for the success of the programme by measuring it against its goals and objectives, it becomes relevant because one of the research questions of the study is to appraise the scoreboard of the ICPC as an agency to fight corruption in Nigeria. Accordingly, this brings interaction with the sample population while assessing the ICPC in its anti-corruption czar.

From the above discussion, the model adopted for the study – AOM brings out the relevance of key concepts such as cases, scorecard, convictions and performance.

Methodology

The study explored both primary and secondary sources of data. The primary data relied on the use of In-depth Interviews (IDIs). The IDIs were recorded and transcribed and the respondents were chosen by purposive sampling technique. IDIs were used to capture the empirical dimensions of the study. The secondary sources of data were used to complement the primary data of the study. The secondary sources included the use of content analysis, archival data drawn from the ICPC libraries, TI ratings on corruption, media reports, journals and textbooks. The techniques of data analysis were qualitative and quantitative in nature. The quantitative analysis used simple percentage (%) while the qualitative data used ethnographic summaries and quotations for the analysis.

Results/Discussion of Findings

ICPC and its Appraisal

Appraising an anti-graft performance is a tedious exercise which requires a careful observation. It is in line of this that Johnson et. al (2011) observe that "evaluating a performance of any institution comes with special attribution challenges." Observing these attribution challenges in this study, the performance of the institution (ICPC) encompasses some anti-corruption variables/criteria of performance. These include: No of petition received, No of cases filed in court, No of cases concluded, Conviction, and Recoveries

The details of the above are shown in table 1 below.

Table I: The ICPC scorecard

Year	No of Cases brought to the Commission	No of cases filed in court	No of cases concluded	Conviction	Cash Recoveries (N)
2001	44 (0.49%)	4 (1.15%)	11 (0.86%)	0 (0.00%)	N/A
2002	339 (3.74%)	10 (2.87%)	19 (1.49%)	0 (0.00%)	N/A
2003	295 (3.25%)	14 (4.01%)	17 (1.33%)	2 (3.85%)	N/A
2004	415 (4.58%)	13 (3.72%)	16 (1.26%)	0 (0.00%)	N/A
2005	570 (6.29%)	11(3.15%)	17 (1.33%)	0 (0.00%)	N/A
2006	777 (8.57%)	42 (12.0%)	279 (21.9%)	7 (13.5%)	56,101,000.00
2007	752 (8.30%)	50 (14.3%)	152 (11.9%)	4 (7.69%)	382,103,536.48
2008	998 (11.0%)	43 (12.3%)	121(9.50%)	6 (11.5 %)	42,851,242.82
2009	1008 (11.1%)	24 (6.88%)	117 (9.18%)	7 (13.5%)	95,960,470.00
2010	1117 (12.3%)	41 (11.7%)	172 (13.5%)	9 (17.3%)	91,506,130.37
2011	1017 (11.2%)	23 (6.59%)	117 (9.18%)	4 (7.69%)	276,479,414.19

2012	708 (7.81%)	21 (6.01%)	60 (4.71%)	5 (9.62%)	1,182,000'000.00
2013	1023 (11.3%)	53 (15.2%)	176 (13.8%)	8 (15.4%)	709,800,000.00
Total	9063 (100%)	349 (100%)	1274 (100%)	52 (100%)	₦2,836,801,763.86

Source: Fieldwork (2013)

From the above table, the total number of cases brought to the Commission was 9063 cases. The highest number of cases brought to the Commission was 1117 cases in the year 2010 while the least number of cases was in the year 2001 with 44 cases. These represented 12.3% and 0.49% respectively. The reason why 2001 cases were low was because of the fact people were yet to know the activities of the institution. The analysis further revealed that the highest number of cases filed in court was in the year 2003 with 53 cases. This represented 15.2% while the year 2001 had the lowest number of cases filed in court with 4 cases; this represented 1.15%. The total number of cases filed in court from 2001 to 2013 was 349 cases. Also, the total number of cases concluded under period of study was 1274. The year 2006 was the year the Commission concluded highest number of cases. The highest of number of cases the Commission concluded were 279 cases. This represented 21.9%. 2001 was also the year the Commission concluded the least number of cases. The total number of cases was 11 which represented 0.86%.

In order to measure the performance of this agency/institution, conviction is a good parameter. One needs to examine the number of conviction secured relative to the number of cases filed in court. From 2001 to 2013, the total number of conviction secured was 52. The number of cases filed in court was 349. The convictions secured (52) were small compared to (349) cases filed in court. The percentage of convictions secured compared to the number of cases filed in court was 14.9% (Total number of conviction secured divided total number of cases filed in court multiply by 100). This is far below average. This shows that the ICPC is ineffective in fighting corruption in Nigeria.

Besides, Human Rights Watch (2011) argues that the most important measure of Nigeria's anti-corruption record is its success or failure in prosecuting corrupt nationally prominent political figures. The scorecard of the ICPC showed that its convictions were 52. Only 1 high level cases led to conviction out of a number of prominent political figures such as Ghali Umar Na'Abba, the former Speaker of the House of Representatives (2002), Fabian Osuji, Head of the Nigerian Federal Ministry of Education (2006), Cornelius Adebayo, Head of the Federal Ministry of Communication and Transport (2007), Vincent Ogbulafor, PDP National Chairman (2010) etc that were accused of corruption. This was just 0.29% of all the convictions made and it further revealed how ineffective the ICPC is in fighting corruption in Nigeria.

The ratings of Nigeria on corruption by TI revealed that corruption has not really been tamed in Nigeria. The table below shows the ratings of Nigeria by TI from 2001-2013

Table 3: TI ratings of Nigeria on corruption from 2001-2013.

ear	osition	core
001	0/91	0/10.0
002	01/102	6/10.0
003	32/133	4/10.0
004	44/145	6/10.0
005	52/158	9/10.0
006	42/179	2/10.0
007	47/180	2/10.0
008	21/180	7/10.0
009	30/180	5/10.0

010	34/179	4/10.0
011	43/183	4/10.0
012	39/176	7/10.0
013	44/177	5/10.0

Source: Transparency International, Corruption Perception Index: 1996-2013

The analysis showed that the highest score Nigeria had was 2.7 out of 10 in the years 2008 and 2012 with the ratings of 121/180 and 139/176. Nigeria was ranked as second most corrupt country in the world in the years 2001, 2002, 2003 and 2004 with the ratings of 90/91, 101/102, 132/133 and 144/145 respectively. Although, Nigeria had slightly moved from away the bottom of the table since 2005, the ratings still showed that corruption was still endemic in subsequent years in Nigeria. Looking at the table, it is difficult to say that corruption is subsiding in Nigeria. It is safe to say that the scourge is fluctuating (2008 rating compared to 2009, 2010, and 2011. Also, 2012 compared to 2013).

The assessment of perception of Nigerians and the other stakeholders gleaned from newspapers/news magazines/internet surfing reports and content analyzed on the performance of the anti-corruption agencies is presented by Igbinovia (2014) in a table below.

Table 4: The Table illustrating the Nigerian Anticorruption agencies and their functional performance

S/N	Agency	Legal Instrument	Mandate Function	Focus/Target	Scorecard
1	EFCC	Established in 2002. Act Amended 2004. The EFCC Act of 2004. Part IV, section 14-18	Focuses on economic and financial crimes such as advanced fee fraud, money laundering, counterfeiting and other forms of fraud, graft and corruption. The nomenclature delimits and defines its mandate.	Directed at a battery of offenders; Public and Private	Negative (-)
2	ICPC	Established in 2000; Independent Corrupt Practices and Other Related Offences Act 2000; Sections 12-22	Has mandate to combat corruption, including bribery, fraud and other related offences. The nomenclature delimits and defines its mandate	Directed at a battery of offenders: Public and Private	Very Negative (-)
3	CCB	Established in 1989. Styled itself "Nigeria's First Anti-corruption Agency." 1999 Constitution: section 2 (a) of the third schedule; section 18 of Fifth schedule; Paragraph 12 of Part I of the Fifth Schedule.	Charged with enforcing the Code of Conduct for Public Officers and Assets Declaration Regime. To ensure Public Officers conform to the highest standards of public morality and accountability, including corruption. The nomenclature delimits and defines its mandates	Directed at all Public Officers	Very Negative (-)
4	NPF	Established in 1930, Police Act of 1979. Section 4(cap P18);. The Constitution of the Federal Republic of Nigeria, of 1999 (section 215)	Prevention and detection of crimes, apprehension of offenders, preservation of law and order, protection of life and regulations.	Directed at a battery of offenders: Public and Private	Very Negative (-)

Source: Igbinovia (2014)

From the above table, the assessment of the ICPC by the stakeholders, newspapers, perception of Nigerians was very negative (-) in relations with the mandate and it focus/target. In an interview on March 20, 2013, the Chairman of the ICPC, instead of admitting directly that his agency has been weak, slow and tardy with nothing to show for its being or existence, rationalized that the dismal performance of the ICPC can be attributed to the agency concentrating on "preventive corruption" (The Nation, March 30, 2013 : 20-21, Igbinovia, 2014). The ICPC has its strategy of preventing corruption through Anti-corruption and Transparency Monitoring Units (ACTU), the agency has carried out system review of more than 185 Ministries Department and Agencies (MDAs) and was able to recovered total amount of ₦2,836,801,763.86 under period of study (Author's Field Work, 2015).

The question one needs to ask is that why is it that the ICPC is ineffective in fighting corruption in Nigeria? According to Aiyede (2014), "political interference remains a major set-back to the anti-corruption war." Igbinovia (2014) corroborates this when he posits that the inability of anti-corruption agencies to perform effectively is vitiated by political interference. For instance, there are incessant withdrawals of cases by Attorney General of Federation (AGF). Mr Muhammed Bello Adoke (AGF) withdrew about 25 high profile cases eliciting criticism from the human rights community (Nna and Jacob, 2012). In his letter dated 28th of January, 2011 to the Acting Chairman of ICPC calling for the withdrawal of Minister of State for Health, Mr. Suleiman Bello's case file who was alleged to have received ₦11.2 billion from Governor Murtala Nyako as "hardship allowance" when he was the Resident Electoral Commissioner in Adamawa state. Although, the AGF has power to withdraw a criminal charge against any person under section 174(1&2) of the 1999 Constitution, but the Constitution under sub section 3, says it must be exercised in the public interest and to prevent the abuse of legal powers. In case of publicly withdrawing of criminal charge against any person, especially corruption cases, this will serve as a great obstacle to the activities of the ICPC in its fight against corruption (Nna and Jacob, 2012).

Furthermore, slow judicial process also affects anti-graft war of the ICPC greatly. According to the ICPC official interviewed, he posits that "…our legal system, we have cases not really move on. If we say we are having challenges that show we are not getting enough results." Another official interviewed also testified to the fact that the Commission is having a challenge of judicial process. He asserted that "the slow pace of movement of cases in the Nigerian judiciary as well as slow movement of all the ICPC cases that are being investigated by the police which development has tended to portray the ICPC as a non-performer to the society."

Also, underfunding by government is also a factor that accounts for the institution's failure. Poor funding has become an obstacle to the successful prosecution of corruption cases. Most of the innovative education and public enlightenment programmes designed by the Commission to improve public perception of corruption are not being executed for lack of funds. Apart from this, the Commission's capacity to investigate petitions has not grown due to poor funding. According to former ICPC Chairman, Justice Ayoola, he posited that:

Poor funding has become a menace to the successful prosecution of the fight against corrupt practices. As in some of the other agencies of government, insufficient funding is slowing down the war on corruption…Thus, clearly, the ICPC would require money to recruit more personnel in all departments, and expand its operations nationwide. By the ICPC Act, the Commission is expected to have offices in all the 36 states of the federation and Abuja. But it currently has offices I only 14 states due to inadequate funding. The result is that available staff are overworked (Suleiman, 2010).

Apart from poor funding, lack of personnel accounts for institution's failure to fight corruption. The interview conducted with one of the ICPC officials; he states that:

The ICPC started with poor investigation and prosecution capacities because the petitions were not coming. So, the Commission had to strategically embark on mobilization, education and enlightenment of the people. Now the petitions come in a deluge! We are happy that the petitions are coming but unfortunately the petitions won't investigate themselves. We have huge petitions, but where are the personnel? We have doubled our programmes, we have tripled our activities, but the personnel that we have remain the same.

According to the interviews conducted with the ICPC officials at one of the state offices; it shows that the ICPC has less than 800 personnel in all its 14 states and its headquarters in Abuja.

…when you look at the ICPC with less than 800 personnel to deal with corruption cases, mind you, you cannot successfully deal with a corruption in two days, you will take the personnel to court, you have not finished another person is committing another. 800 personnel are too limited to number of cases we received. Mind you, out of that less than 800, less than 200 personnel are in Investigation Department, the other Department let say legal, so that people got to conduct the cases in court while the others are supporting staff in order to make the system works. How many investigators I have here? Only two, the work is really telling much on them.

The above assertion indicates that the personnel of the ICPC are inadequate. The complexity of Nigerian state with about 170 million people requires lots and qualified personnel to fight corruption. In every single minute, a case of corruption is reported. Everywhere in Nigeria there is corruption and the war against corruption can be won if there is adequate manpower to fight the scourge.

Conclusion

From the study, the appraisal of anti-graft agency (ICPC) is ineffective to fight corruption in Nigeria. The main criterion used in this study was the percentage (%) of number of cases filed in court relative to the percentage (%) of the conviction secured by the ICPC. Also, the assessments of Human Rights Watch and people perceptions show that the agency is not effective in fighting corruption. The scorecard further revealed that the agency's was very negative (-) in fighting corruption under the period of study. Factors accounts for the dismal performance of this agency were slow judicial process, underfunding, inadequate personnel, political interference etc.

Recommendations

In order to have effective and efficient ICPC in fighting corruption, there are steps necessary to be taken. These are: one, the ICPC needs a special court to try people involve in corruption cases. The special court should be at the *whims and caprices* of the ICPC. This will enable the ICPC to be pro-active. Most of the cases were pending in the courts which made the agency to be ineffective in fighting corruption in Nigeria. Two, the enabling Act of the Commission should be reviewed by the National Assembly for effective performance in fighting corruption in Nigeria. The Act 2000 that set up the agency does not give the ICPC powers to investigate corruption cases before its birth. If the Act 2000 was reviewed, the ICPC would be pro-active. It has been observed that Nigeria lost over $400 billion to corruption between 1960 and 1999 (Ehirim, 2011). These past looters of Nigerian treasury will be apprehended and try for corruption cases if the enabling laws of the ICPC were reviewed. Three, adequate and qualified personnel should be employed for anti-corruption czar. Having enough personnel will ensure the fight to be pro-active. The personnel should be in all 36 states with their offices. Four is adequate funding. This is essential for effective anti-corruption war in Nigeria. Adequate funding will enable the ICPC to become efficient and effective in combating corruption in Nigeria. The ICPC needs fund to prosecute cases, to pay its lawyers and also to run its programmes and plans on corruption prevention and enlightenment.

Above all, public skepticism and "this is our time syndrome must be tackled. In order to ensure this, Nigerians must be enlightened about integrity. Most people don't really see damage that corruption does to the country. They see that there is lack of development; they see that there are no hospitals; they are not happy with the state of our educational institutions, but they don't see how they are related to corruption. Therefore, people need to be educated. This will make them to understand that corruption is a serious social evil which requires serious anti-graft war.

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