

PERCEPTIONS ON THE MODUS OPERANDI AND THE EFFECTIVENESS OF SELECTED ANTI-CORRUPTION AGENCIES IN NIGERIA

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Abstract

The paper investigated the perceptions on the modus operandi and the effectiveness of anti-corruption agencies in Nigeria with specific reference to the Independent Corrupt Practices and other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC). The paper relied on qualitative method of inquiry. It also adopted exploratory design method. Data were collected through Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs). A total of three (3) sessions of KII and six sessions of FGD were conducted. FGD sessions were carried to garner and reflect the perceptions of two agencies using different categories of Academia, Civil Society Organisations and the Media. KIIs and FGDs were recorded and transcribed and they were subjected to ethnographic summaries and quotations. The paper found out that the method employed by the agencies was effective but not efficient in fighting corruption in Nigeria. It was recommended among others, that for the method employed to effectively combat corruption in Nigeria, it should be improve upon in fighting corruption, EFCC and ICPC study should have their special courts to determine corruption cases and they should be well-funded by the government of Nigeria.

Keywords: Method, ICPC, EFCC, Effectiveness

Introduction

The effectiveness of anti-corruption agencies becomes a subject of debate for scholars of the development studies. The reason why most anti-corruption experts study the effectiveness of the anti-corruption agencies is that the development of the country is at stake when corruption affects such a country. Besides, over the past decade, corruption has been identified as a costly diversion of scarce resources and an impediment to development effectiveness (Heibrunn, 2004). In other words, the survival of a state and its development will become unachievable if there is endemic corruption. In order to corroborate why the effectiveness of anti-corruption agencies needs to be studied, the internal evaluation by the World Bank on public sector reform programme finds that, while a majority of its country borrowers have implemented anti-corruption and transparency strategies, their efforts have not reduced perceptions of corruption. The report also finds that direct measures to reduce corruption such as anti-corruption laws and Commissions rarely succeeded (World Bank, 2008).

In literature, the effectiveness of anti-corruption agencies has been a debate among scholars, analysts and anti-corruption experts. While some have recorded successes, some have recorded failure (Fjeldstand and Isaksen, 2008; Johnston, 2005; Lawson, 2009; Meagher 2005; Svensson, 2005). For instance, the Independent Commission Against Corruption (ICAC) in Hong Kong has enjoyed resounding success in fighting corruption since 1974 (Heibrunn, 2004) while the Inspectorate of Government (IG) and the Director of Public Prosecution (DPP) in Uganda have recorded little successes in achieving their mandates. Therefore, the seeming failure of making anti-corruption agencies into effective

and efficient has continued to be a concern to scholars, Academia, Civil Society Organisations (CSOs) and other relevant stakeholders in the areas of development studies.

Nigeria, like other countries across the world, established a number of anti-corruption agencies to combat corruption. Prominent ones among them are the Economic and Financial Crimes Commission (EFCC) (2002) and the Independent Corrupt Practices and other Related Offences Commission (ICPC) (2000). Despite the establishment of these agencies, the level of corruption in Nigeria has not really subsided. The Transparency International (TI), an agency that ranks corruption globally just of recent ranked Nigeria 136/175, 136/168 and 144/177 respectively with scores of 2.7, 2.6 and 2.5 out of 10 in the years 2014, 2015 and 2016 respectively (TI Rating of Corruption, 2014, 2015 and 2016).

Against the background of poor ranking of Nigeria among the countries across the globe on corruption in recent years, however, *modus operandi* of the anti-corruption agencies has not been giving attention in literature. Therefore, the study examines the *modus operandi* and the effectiveness of anti-corruption agencies (the EFCC and the ICPC) in Nigeria. *Modus operandi* of these agencies needs to be investigated because it affects the time of investigating and prosecuting the people involved in corrupt practices. This is because the information and the petition received necessary to back a case for prosecution depend on the methods employed by the ICPC and the EFCC and how helpful it is on their effectiveness. In other words, the method(s) employed by these anti-corruption agencies will have a strong bearing on the success of convictions of these agencies in fighting against corruption. The paper is structured into five parts. Paper one introduces the study, part two considers conceptual clarification, part three examines the theoretical framework, part four examines the perceptions on the method employed and the effectiveness of anti-corruption agencies in Nigeria while part five concludes and recommends for further study.

Methodology

The study relied on qualitative method of inquiry. It also adopted exploratory design methods. Primary and secondary sources of data were collected. The primary sources of data were collected through Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs). Interviews were conducted with three (3) purposively selected Key Informants, including officials of the ICPC, EFCC, and State Security Official. The target groups of FGD sessions were the Academics, Media and the CSOs. A total of three (3) sessions each for the FGDs and the KII were carried out. The use of purposive sampling was used for KII and FGDs.

Conceptual Clarification

Modus Operandi: This refers to manner, techniques, style, procedure, approach, course of action, or plan of action. According to Vronsky (2004: 412), *modus operandi* refers to police work when discussing crime and addressing the methods employed by the perpetrators. It is also used in criminal profiling where it can help in finding clues to the offender's psychology (Hazelwood & Burgess, 2001). It largely consists of examining the action used by the individual(s) to execute the crime, prevent its detection and/or facilitate escape (Douglas et. al, 2006). In the context of this paper, *modus operandi* is taken to mean the definition adopted by Vronsky.

Effectiveness: Effectiveness is the degree to which objectives are achieved and to extent to which targeted problems are solved. It is also seen as a measure of the match between stated goals and their achievements. Similarly, Erlendsson (2002) defines effectiveness as the extent to which objectives are met. For the purpose of this study, effectiveness is seen as a way examining whether the goals or objectives are met with the outcome of a particular programme or agency.

Anti-corruption: This simply means the initiative, measure, reform and program put in place to create a corrupt free society and maintaining a high moral standard (Aderounmu, 2011). Anti-corruption crusade in this study is defined as the announcement or campaign by the organisation which may be private, such as the CSOs or the public – like state agency that concerted actions will be taken or are being to fight corruption. Usually, such announcement or campaign starts at the national, or sub-national, to local levels.

Theoretical Framework

This paper is anchored on Good Governance Model (GGM) as its theoretical framework. Of the various ways in which the analysis of corruption can be approached, the good governance model is deemed worthwhile given the contention that the “quality of governance of a nation is the factor that plays the main role in the ability to deter

corruption” ((Arze & Boes, 2004) and “strongly correlated with various development outcomes across countries (Kaufmann, 2002).

Good governance is consensus oriented and pragmatic adherence to universally acclaimed principles of accountability, participation, transparency, rule of law, responsiveness, efficiency, effectiveness and equitable distribution of resources. The model stresses that the absence of the stated principles in a polity encourages corruption. The implication of the above is that good governance has political, social and economic dimensions, which emphasizes importance responsible and responsive democratic rule in its entirety (Gafar, 2009).

The GGM therefore, is about simultaneously addressing institutional reforms and among others to improve the stability of the rule of law, anti-corruption reforms and among others to improve the accountability of governments (Erkkila, 2004). Thus, good governance is now seen as one of the cornerstones of political and economic development in Nigeria. That the *modus operandi* of the anti-corruption is being viewed through the GGM by ensuring its effectiveness to combat corruption is paramount. The essence of this is to ensure development of the Nigerian state in terms of combating corruption through anti-corruption agencies. In fact, there is now an implicit consensus that strict adherence to governance prescription should not only be a take-off point, particularly developing countries, but also a *sine qua non* to any meaningful and acceptable level of analysis of corruption.

Therefore, any analysis of corruption that does not take this into consideration is likely to suffer credibility problem, that is why it is been recognized as the preferred framework. Recently, the terms “governance” and “bad governance” are being increasingly used in development literature. Bad governance is being regarded as one of the root causes of all evils within our societies. Hence, bad governance by implication leads to bad performance not only to the government but also to anti-corruption agencies (the ICPC and the EFCC) under study. This endangers the development and stability of the Nigerian state which can further results in misallocation of fund and erodes public confidence in government policies. Major donors and institutional financial institutions are increasingly basing their aid and loans on the condition that reforms that ensure “good governance” are undertaken. Using GGM as a theoretical framework to analyze *modus operandi* and the effectiveness is germane because effectiveness is one of the parameters of good governance. Besides, anti-corruption agencies cannot be effective if good governance is not put in place. Here, the people want to see these agencies being accountable, transparent in the way and manner they investigate and prosecute corruption cases.

Finally, good governance is the door to anti-corruption. It allows a responsible economic and financial management of public and natural resources for the purpose of economic growth, social development and poverty reduction in an equitable and sustainable manner, while it encourages the use of clear participatory procedures for public decision-making, transparent and accountable institutions, primacy of law in the management and distribution of resources. With this, there will be effective measures to prevent and combat corruption (Independent Advocacy Project, 2004; Gafar, 2008).

Method Employing by the ICPC and the EFCC in Combating Corruption in Nigeria

Anti-corruption agencies employed method in combating corruption. This needs to be investigated. As it has been put, it has effect(s) on the time of investigating and prosecuting of those involved in corruption cases. Therefore, it has effects on the performance of any anti-corruption agency. In examining the Acts of the two agencies, the methods employed by the ICPC and the EFCC are entrenched in their Acts; the ICPC Act poignantly stated method below:

Every report relating to the Commission of the offence under this Act may be orally or in writing to an officer of the Commission, and if made orally shall be reduced into writing and read over to the person making the report; and every such report shall be signed or thumb-printed by the person making the report is an illiterate the officer obtaining the report together with a statement to the effect that it was read over and interpreted to the maker (ICPC Act, 2000).

The EFCC Act (2004) Section 11 (e)-(h) also states that the method involves: Collection of evidences, law enforcement techniques, legal prosecution and defence; and dissemination of information on economic and financial crimes and related offences.

Table I

S/N	KII Question	Respondents	Response
1	I know you are familiar with the method employed by your agency in combating corruption, can you describe this method?	ICPC Officials EFCC Official	Not Applicable Not Applicable

Author's Field Work (2015)

Describing the method used in handling corruption cases by the ICPC; an official of the ICPC posited that:

Generally, the ICPC has various ways of getting information about corruption. One of the ways is through petition of some organisations who have experienced acts of corruption can freely write to the Commission that something has happened, this is how it has happened and the Commission can take it up from there...By taken up there I mean that the Commission will therefore investigate what has happened and thereafter prosecution follows.

The EFCC Spokesman described the method of the Commission as:

We make use of petitions from various quarters. Once a petition is received, the Commission will try as much as possible to investigate and if the person involved is guilty then he/she will be arrested, interrogated and prosecution follows.

From the above, it is inferred that the two agencies use similar/same method in handling corruption cases. FGDs were used to corroborate whether the two agencies under study are using the same *modus operandi* in the fight against corruption. Participants were asked the question "I know you are familiar with the method employed by the ICPC and the EFCC in fighting corruption in Nigeria, can you describe the method?" Details of this were presented in table II.

Table II

S/N	FGDs Question	Respondents	Response
1	I know you are familiar with the method employed by the ICPC and the EFCC in fighting corruption in Nigeria, can you describe the method?	Academia Civil Society Organisation Media	Not Applicable Not Applicable Not Applicable

Authors Field Work (2015)

In the FGD sessions with the CSOs, participants agree that the ICPC and the EFCC use the same method in handling corruption cases. According to the participants (everybody), they agree that they use petitions they received from the members of the public and later act by summoning the person concerned. To corroborate this statement, participants of the FGDs conducted with the Academia, agreed that the anti-corruption agencies use same method in handling corruption cases. One of them added to petition by asserting that:

The method employed could be through petition, through report, report is different from petition, and it could be through media, activities of opposing political parties that may want to reveal the cleansing of other party.

The FGDs session with the Media personnel corroborate that they use similar method to handle corruption cases. A participant in the FGDs submits that:

They depend heavily on information from the people/complaints. Somebody writes thing about a particular corrupt act. From there, they will now take it up to do their investigation when will later lead to inviting the victim or whosoever that is involved. Basically, that is the method they have been using.

The question to ask is that if the two agencies use the same *modus operandi*, then, how effective is the method employed by these agencies in combating corruption? Interviews conducted with the EFCC and the ICPC officials showed that the method used by these agencies is effective.

Table III

S/N	KII Question	Respondents	Response
1	Is the method employed by your agencies effective and efficient?	ICPC Officials EFCC Official	Effective and efficient Effective and efficient

Authors Field Work (2015)

According to the EFCC spokesman, “the method the Commission (EFCC) uses is effective and efficient but there is room for improvement.” He posits that “although the court system is slow in prosecution of some cases. There are cases that drag on and a lot of them are in court.” With this, it shows that what makes the method not really effective is the inefficient and slow judicial process or poor capacity of the prosecution Department of the Commissions. Owasanoye (2014: 26) captures his position as regards to how judiciary undermines the efficiency of the agencies. He posits that:

The EFCC has always pointed to the slow judicial process as an obstacle to quick administration of some of its cases. Its position, which represents the partial truth, is that it cannot play the role of prosecutor and judge. Once a case is filed, the Chief/Administrative Judge concerned has discretionary power to assign the case to any court of his choice. Therefore, both the Commission and accused are at the mercy of the trial judge.

The ICPC officials interviewed, all agreed that the method the agency uses is effective and efficient. One of the participants posits that:

Through our method used in fighting corruption, we are able to secure lots of convictions and we are still making progress to investigate some cases to make more convictions through the method we employed to fight corruption in Nigeria. This shows that the method is effective and efficient.

In order to corroborate the assertions of the officials of the anti-corruption agencies, FGD sessions were used. The respondents included the Academia, CSOs, and Media. Their responses were summarized in the table iv below.

Table IV

S/N	FGD Question	Respondents	Response
1	Is the method employed by these agencies effective and efficient?	Academia CSOs Media	Effective not efficient Effective not efficient Effective not efficient

Authors Field Work (2015)

In order to ascertain how effective and efficient the method employed by these agencies, a respondent from the FGDs Media states that:

The method is not effective. Even the mode of arrest is not effective. Long period of investigating an issue and the mode of even indicting a public officer is faulty. Therefore, it is not effective.

Another participant in the FGDs Media posits that:

To some level is effective. I could remember that the ICPC formed clubs which they introduced to schools, that schools should join such clubs. I think these clubs have been giving them information and they are trying what they can make out through this.

Apart from these two participants in the FGDs Media, others agree that the modus operandi of the two agencies is effective to combat corruption. The FGDs conducted with the CSOs, they also agree that the method employed by the agencies is effective. A participant states that:

It is not the method employed that is faulty. The method is in such a way of receiving information, summon, arrest and prosecution. Therefore, these processes are not bad and that is what the Nigeria Police also uses.

The participants of the FGDs Academics also agree that the method is effective but at times, it may not work that way. A participant asserts:

..sir, the issue is that the method they are employing sometimes people have come up with the fact that most times, it doesn't work that way. For example, I have a clash with you, it is possible for me to go and cook up one story and say somebody was involved in corrupt act especially among the politicians just to create attention that the person is involved in corrupt act. They are using it to dent the image at times of the people involved in corrupt cases.

Based on the foregoing, the study revealed that method employed by the agencies in combating corruption in Nigeria is effective but there room for improvement because the politicians are using the method to dent their images. According to a participant in FGD Academics, he posits that:

I also want to say that to me they may not be absolutely right that public alert may simply it be efficient, but I think they can still simplify it. It cannot be completely put aside, so they can be simplified. And this can be done by amending their Acts that set them up.

Another respondent said that (Respondent II):

...the EFCC and the ICPC are using Police modus operandi. If you go to the Police for instance to report a crime, you are the first suspect. Because of that orientation we have, it will be difficult for an average Nigerian to write a petition. Only politicians have the courage to write. They would be able to say let me report and some human rights lawyers or activists write. An average Nigerian will be afraid to write a petition.

Another respondent (Respondent III) also buttresses a case for improving the modus operandi when he posits that:

The simplification should be in such a way that you don't even need to be identified. It is the fact; that if there is information, they will work on the information. It is as simple as that. It should be anonymous. The identity should not be linked to public domain immediately until investigations are concluded.

Another participant (Respondent VIII) further asserts that:

For instance, look at Saraki's wife, the time she was being investigated. And somebody say, ha! It is Bola Tinubu that wrote a petition against her. It is APC that wants to get to Saraki because of the way and manner he gets to the Senate Presidency through some forces. Later, it was revealed that it was the PDP that wrote and the party wanted to investigate her. What I am trying to bring out is that even at the public domain you will see this controversy in place about who is writing a petition or who is not writing a petition. So an average Nigerian will find it difficult to write.

Another participant (Respondent VI) suggests an improvement in the method when he posits that: "Government should evaluate and monitor method they put in place. Periodically review it or redesign the method in order to make it more effective and efficient". Comparatively, it was revealed that the two agencies use same/similar method of

apprehending corrupt people. As regards the effectiveness and efficiency of this method, it was revealed that the method is effective but not efficient in the long run. The FGD sessions held with the Media, one of the participants posits that “it is the responsibility of these anti-corruption agencies to receive petition, investigate and prosecute. When the case gets to court however, their method becomes inefficient.” It should be reviewed periodically for effective performance in combating corruption in Nigeria.

In terms of deterrence, the two agencies are different in their approaches/modus operandi in fighting corruption in Nigeria. The EFCC relies more on a confrontational approach to corruption (arrest/prosecution) while the ICPC is more inclined towards a slow bottom-up approach (public education, re-orientation and prevention through system review of parastatals and government agencies) (Enweremadu, 2010). A factor responsible for this is the professional backgrounds of their leaderships. While that of the former is security that of the latter is legal.

Conclusion

The perception of the participants in the IDI and FGD sessions reveals that the modus operandi of the agencies under study is effective but not efficient in combating corruption in Nigeria. The effectiveness of the methods employed by the ICPC and the EFCC is hindered by the judiciary which makes their impact in the war against corruption inefficient. In order to have effective and efficient anti-corruption agency, the followings strategies need to be put in place.

First, anti-corruption agencies should be given freedom to have special courts. This makes them to determine corruption cases without the use of influenced judges. It is evident that the judiciary is undermining the performance of anti-corruption agencies through the power of the Politically Exposed Persons (PEPs).

Two, the EFCC and the ICPC should ensure that they compliment the method of combating corruption with another method. There is nothing wrong in having diverse methods of combating corruption. Besides, the more the method, the more effective and efficient the method will be in fighting corruption in Nigeria.

Three, effective and efficient method of fighting corruption requires good funding from the Nigerian government. It is the resources at their disposal that they will employ in fighting corruption. Modus operandi of the EFCC and the ICPC requires resources to investigate and prosecute corruption cases. In other words, adequate funding has a strong bearing on the method employed by the ICPC and the EFCC in combating corruption in Nigeria.

Four, since what undermines the effectiveness of the EFCC and the ICPC is sometimes not institutional but personal, judges should henceforth be assessed by the time they take in deciding cases. Besides, anybody found or involved in corruption case should not go beyond the court of appeal. Some PHPs sometimes frustrate the judiciary by appealing on the cases that have been decided in the court of law in Nigeria.

Five, Nigerian government should review the Acts that set the EFCC and the ICPC up from time to time. Particularly, the method(s) they employed to fight corruption should be reviewed for effective performance. It is when these strategies are put in place that the method employed by the agencies will be effective. Besides, the agencies under period of study will be acknowledged effective by the Nigerians and the international donors when discharging their responsibility of combating corruption in Nigeria.

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