AN ASSESSMENT OF THE CODE OF CONDUCT BUREAU AND CODE OF CONDUCT TRIBUNAL (CCB and CCT)'S PUBLIC ETHICS PRACTICES (1999 - 2007)

BY

AUDU Jacob

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December, 2012

DECLARATION

I, Audu Jacob, do humbly declare that to the best of my knowledge, this dissertation is the product of my original research efforts and it has not been submitted to any university for examination and all the sources consulted have been properly acknowledged.

…… ……..

AUDU JACOB DATE

CERTIFICATION PAGE

This Dissertation titled "An Assessment of the Code of Conduct Bureau and Code of Conduct Tribunal (CCB and CCT)'s Public Ethics Practices 1999-2007" written by Audu Jacob meets the requirements and regulation governing the award of the Doctor of Philosophy Degree (Ph.D) in Political Science, Department of Political Science, Faculty of Social Sciences, Ahmadu Bello University, Zaria, and is approved for its contribution to knowledge and literary presentation.

…… ……..

Professor Rauf A. Dunmoye DATE

Chairman, Supervisory Committee

…… ……..

Dr Umar Mohammed Ka'oje DATE

Member, Supervisory Committee

…… ……..

Dr Hudu A. Abdullahi DATE

Member, Supervisory Committee

…… ……..

Dr Hudu Ayuba Abdullahi DATE

Head, Department of Political Science

…… ……..

Professor Adebayo Joshua

Dean, Post Graduate School DATE

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DEDICATION

With most gratitude to the Almighty God, I dedicate this dissertation to all the victims of corrupt and unethical behaviours in Nigeria. Perhaps, some have lost their lives and place in destiny but this is to assure you that hope is not lost. It may take time but one day, we would come out of this rot.

LIST OF ABBREVIATIONS

ADF	ASSET DECLARATION FORM
AGF	ATTORNEY GENERAL OF THE FEDERATION
AU	AFRICAN UNION
BMIU	BUDGET MONITORING AND INTELLIGENT UNIT
CADFs	COMPLETED ASSETS DECLARATION FORMS
CCB	CODE OF CONDUCT BUREAU
CCT	CODECONDUCT TRIBUNAL
CDC	CONSTITUTION DRAFTING COMMITTEE
CPIB	CORRUPT PRACTICES INVESTIGATION BUREAU
CSO	CIVIL SOCIETY ORGANIZATIONS
DFID	DEPARTMENT FOR INTERNATIONAL DEVELOPMENT
DPU	DUE PROCESS UNIT
EFCC	ECONOMIC AND FINANCIAL CRIMES COMMISSION
EITI	EXTRACTIVE NDUSTRIES TRANSPARENCY INTERNATIONAL
EU	EUROPEAN UNION
FCT	FEDERAL CAPITAL TERRITORY
FEC	FEDREAL EXECUTIVE COUNCIL
FMG	FEDERAL MILITARY GOVERNMENT
FRN	FEDERAL REPUBLIC OF NIGERIA
FAQ	FREQUENTLY ASKED QUESTIONS
GDP	GROSS DOMESTIC PRODUCT
ICPC	INDEPENDENT CORRUPT PRACTICES AND OTHER RELATRED OFFENCES COMMISSION
ICAC	INDEPENDENT COMMISSION AGAINST CORRUPTION
IDI	INDEPTH INTERVIEW

IMF	INTERNATIONAL MONETARY FUND
MAMSER	MASS MOBILIZATION FOR SOCIAL JUSTICE AND ECONOMIC RECOVERY
NEITI	NIGERIAN EXTRACTIVE INDUSTRIES TRANSPARENCY INTERNATONAL
NITEL	NIGERIAN TELECOMMUNICATIONS
NLC	NIGERAN LABOUR CONGRESS
NJC	NATIOANAL JUDICIAL COUNCIL
NCS	NATIONAL COUNCIL OF STATES
NGO	NON GOVERNMENTAL ORGANIZATIONS
NOA	NATIONAL ORIENTATION AGENCY
NEPAD	NEW PARTNERSHIP FOR AFRICA DEVELOPMENT
NPN	NATIONAL PARTY OF NIGERIA
OECD	ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
OSA	ORGANISATION OF AMERICAN STATES
PCC	PUBLIC COMPLAINTS COMMISSION
PTDF	PETROLEUM TRUST DEVELOPMENT FUND
SAP	STRUCTURAL ADJUSTMENT PROGRAMME
SRS	SMPLE RANDOM SAMPLING
SMC	SUPREME MILITARY COUNCIL
SPSS	STATISTICAL PROGRAMME FOR SOCIAL SCIENCES
TI	TRANSPARENCY INTERNATIONAL
UK	UNITED KINGDOM
UN	UNITED NATONS
UNDP	UNITED NATIONS DEVELOPMENT PROGRAMME
UNECA	UNITED NATION ECONOMIC COMMSSION FOR AFRICA
USA	UNITED STATES OF AMERICA

USAID	UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
USSR	UNITED SOVIET SOCIALIST REPUBLIC
UPGA	UNITED PROGRESSIVE GRAND ALLIANCE
VIP	VERY IMPORTANT PERSON
WAI	WAR AGAINST INDISCIPLINE
WAIC	WAR AGAINST INDISCIPLINE AND CORRUPTION
WB	WORLD BANK
WTO	WORLD TRADE ORGANIZATION

ABSTRACT

The prevalence and ubiquity of unethical behaviours and practices in Nigeria is no longer debatable considering their obviously insidious plague and a wide range of corrosive effects on the Nigerian state. What is more perplexing, however, is why this problem has defied all attempts at combating it. Thus, this dissertation is an assessment of the Code of Conduct Bureau and the Code of Conduct Tribunal in the practice of public ethics in Nigeria's democratic governance (1999-2007). In order to achieve this aim, the constitutional mandates of the Bureau and the Tribunal were used as parameters for assessment. Relying on the survey method of research and documentary evidence with the aid of descriptive statistics, the study found out that the CCB and CCT were established primarily to promote public ethics in public service. Other findings show that in terms of Assets Declaration Forms(ADFs) issued to public officers within the mandate of the Bureau, over 784,000 public officers returned the Completed Assets Declaration forms(CADFs) representing over 70% rate of return which is a far cry from an estimation that eligible people for the forms are over 4,000,000 within the periods under investigation (1999-2007) Also findings shows that out of the number of complaints received by the CCT, only 11,640 were referred to the CCT for trials, out of which only 3,304. The rest were either adjourned until it died down or struck out for lack of merit. With the prevalent nature of this menace and the number of convicts, it is a clear manifestation of ineffectiveness of the CCB and CCT. On the fourth objective of the study, which focuses on the performance assessment of the CCB and CCT, overwhelming majority of the respondents had indicated that the CCB and CCT had performed below expectation; but considering the efforts made at organizing workshops, retreat and the extent to which public officer on their come to fill, complete and submit Assets Declaration Forms today unlike in the past and the fact that some officers were tried and given a public show means they deserve a pass mark. The study, in agreement with the theoretical postulation of functionalism identified institutional framework, financial, manpower in terms of quality and quantity, legal and constitutional set back and lack of political commitment and willingness on the part of political leadership as factors responsible for the ineffective performance of their functions. This therefore buttressed the postulation of these scholars that establishing institutions alone does not solve the problem but providing what they referred to as functional prerequisites are very fundamental to effective performance of these institutions. However, we make the following recommendations for an improved performance. Theoretically, the study recommends that there is a need for the provision of the necessary requirements for the functioning of the institutions such as adequate funding, staffing, independence of the institutions to enable them function well. Above all, political leadership must display leadership by example at all levels of governance.

TABLE OF CONTENT

CONTENT PAGE

Title…… i

Declaration ……ii

Certification ……iii

Dedication …… .iv

Acknowledgements……v

List of Abbreviations……vii

Abstract ……x

CHAPTER ONE : INTRODUCTION

1.1 Background to the study ……1

1.2 Statement of Research Problem …… 7

1.3 Research Questions ……..8

1.4 Research Objectives…… 9

1.5 Assumptions ……..10

1.6 Significance of the study……10

1.7 Scope and Limitations of Study…….....12

1.8 Organization of Chapters……13

CHAPTER TWO : Literature Review and Theoretical Framework

2.1 Literature Review ……14

2.2 Public Ethics…….16

2.3 Traditional Ethical Values in Nigeria……...19

2.4 Accountability …….....21

2.5:1 Transparency……...29

2.5:2 Types of Transparency……...31

2.6 Democratic Governance ……..33

2.6:1 Governance ……...34

2.6:2 Democratic Governance ……37

2.7 Theoretical Framework ……42

2.7:1 Structural-Functionalism ……42

CHAPTER THREE: Research Methodology

3.1 Location of the Study Area ……...50

3.2 Types and Sources of Data ……50

3.3 Interview Guide ……....52

3.4 Examination of Official Records……52

3.5 Population Sampling and Sampling Techniques……52

3.6 Data Transcription and Analysis Techniques (DTAT)……...53

3.7 Problems encountered……54

CHAPTER FOUR: Overview of Previous Attempts at Promoting Public Ethics in Nigeria

4.1 General Aguiyi Ironsi ……55

4.2 General Yakubu Gowon Regime……62

4.3 Murtala/ Obasanjo Regime ……64

4.4 Alhaj Shehu Aliyu Shagari Administration…….. ……68

4.5 General Muhammadu Buhari ……71

4.6 General Ibrahim Badamasi Babangida Regime……...74

4.7 General Sani Abacha Regime……...……...76

4.8 Chief Olusegun Obasanjo Administration 1999-2007……...77

4.8:1 Independent Corrupt Practices and other related Offences Commission (ICPC) ……..78

4.8:2 Budget Monitoring Evaluation and Intelligent Unit (Due Process)……78

4.8:3 Economic and Financial Crimes Commission (EFCC)……79

4.8:4 Nigerian Extractive Industries Transparency International (NEITI) ……80

CHAPTER FIVE : Evolution and Mandates of the Code of Conduct Bureau and Code of Conduct Tribunal

5.1 Historical Background…….87

5.2 Evolution and Structure of the Bureau ……...88

5.3 Mandates and Powers of the Bureau and Tribunal…….90

5.4 Code of Ethics of Work for Public Officers ……...96

CHAPTER SIX : Assessment of the Function-Performance of the Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT)'s Public Ethics Practices in Nigeria, 1999-2007.

6.1 Functions-Performance Assessment of the Code of Conduct Bureau (1999-2007)……104

6.2:1 The primary purpose for the establishment of the Code of Conduct Bureau…….105

6.2:2 Total number of Assets Declarations Forms received by the CCB from public officers in accordance with the provision of the Act between 1999 and 2007……..108

6.2:3 The extent to which the CCB promote public ethics in Nigeria's democratic governance (1999-2007)……..112

6.2:4 Factors militating against the effective functions-performance of the CCB (1999-2007)……..115

6.3 Functions-Performance Assessment of the Code of Conduct Tribunal (1999-2007)…….130

6.3:1 The primary purpose for the establishment of the Code of Conduct Tribunal…….130

6.3:2 How many complaints did the CCT receive about non-compliance with the provisions of the Act by public officers within the period under review and how many have been tried and convicted…….131

6.3:3 The extent to which the CCT promote public ethics in Nigeria's democratic governance (1999-2007)……136

6.3:4 Factors militating against the effective functions- performance of the CCT (1999-2007).....139

6.4 Discussion of Research Findings ……..142

6. 10 Relating Research Assumptions to Research Findings ……..146

CHAPTER SEVEN: Summary, Discussion, Conclusion and Recommendations

7.1 Summary of Major Findings……150

7.2 Conclusion…….....154

7.3 Recommendations…….....156

REFERENCES…….....161

Appendix 1 List of Officers interviewed with Dates……..174

Appendix 2 Interview Guide for Staff of CCB and CCT ……..175

Appendix 3 Interview Guide for Specialized Groups……176

Appendix 4 Budget Allocation for CCB 2000-2005……177

CHAPTER ONE

INTRODUCTION

1.1 Background to the study

The whole essence of holding public office, political decisions and actions is not to satisfy any abstract ideals but to make life better for the citizenry in terms of shelter, food, good health, education and security of lives and property. This is because modern democratic practice worldwide assumes that governments derive mandate from the people and the major goal of governance is to enhance the welfare of the entire citizenry. Public service is the machinery through which such goals are met. If governance is about the welfare of the people, its integrity or otherwise depends on the extent to which public officers are faithful to the social contract and the level of honesty and transparency which they demonstrate in executing such contract. It is only when the activities of government are transparent that government is acknowledged as accountable to the governed. The conduct or behaviour of the public officer which is often reflected in official decisions must therefore conform to the highest ethical standards if public expectations must be met.

The picture painted above constitutes the essence to which governance defined in terms of accountability and transparency can be made more meaningful to the people. However, even though no one would doubt the desirability of accountable and transparent government irrespective of the form of government or political system, a political system or government that renders full account of its stewardship, including the efficiency and effectiveness with which it has utilized resources entrusted to it in the performance of its duties to the citizens promotes stability, peace and prosperity and inspires public confidence in the government.

A general look at the Nigerian political landscape in the light of the above after over five decades of political independence reveals not only a paradox but on the contrary thereby resulting to

what the World Bank (1992) describes as governance crisis. The experience of Nigeria from independence to date with few exceptions has been selfish, personal, unresponsive leadership and irresponsible and unaccountable government which has resulted in the crisis of development. Political power in Nigeria, like in other sub-Saharan African countries, is seen as an end in itself to be used mainly in the pursuit of the self interest of the political ruling class, a class which claimed rights and privileges but refused to recognize that power is entrusted to them to serve the interest of the people.

The challenges of development and democratic stability in developing countries depends to a large extent on the efficient, effective, responsible, accountable and transparent public service. This realization is predicated on the assumption that good governance defined in terms of ethics or ethical behaviour, accountability and transparency are very fundamental to sustainable development. To corroborate this assertion, UNDP (2001) observes that there is greater awareness of the need for ethics, accountability and transparency in the public service today, given its pivotal role in the governance and development of the nation. However, in spite of this awareness, ethics, accountability and transparency in governance, the main thrusts for social and political cohesion, development and economic progress, are still very elusive in Nigeria. The elusiveness of this important vehicle for development is responsible for the decline in good governance in most developing countries (World Bank, 2007). The growing absence of accountability, transparency and ethics in public service badly pushes infrastructural decay, poverty escalation, inequality and political incohesion to an unacceptable dimension. Furthermore, the impact of unethical and corrupt practices in the public service is overwhelming and consequently resulting to loss of confidence in public institutions and the erosion of the rule of law. Nigeria is, of course, rated low in terms of the quantum level of low transparency and accountability in governance.

As a matter of fact, public ethics, accountability and transparency constitute the ethical foundation for the quest for a better society and as such, offer best explanation for why countries that embraced it excel in all spheres of human development. This implies, therefore, that accountability and transparency are ground norms of ethics upon which democracy and development thrive. However, in contemporary Nigeria, good governance, based on ethics, accountability and transparency have practically been relegated to the background, while questionable dealings, large scale political ineptitude, squandermania, corruption, favouritism, nepotism and other forms of unethical behaviours that run contrary to good governance remain a bourgeoning problem. This issue has been a challenge in Nigeria since independence and has undermined all her development plans.

Interestingly, military regimes after long years of dominance in the political governance returned the country to civil rule in 1999. It is in consonance with this that Babawale (2007) noted that democracy has emerged as the most sought political system across the planet. With democracy now in place, comes the euphoria and enthusiasm that things will turn out better for accountability and transparency in governance in Nigeria. Since then, the general expectation has been high because, to many, democracy presupposes the exercise of political power for the promotion of public good. This is because public servants entrusted with guarding public resources and executing decisions on behalf of the people play an indispensable role in the development and democratic governance of the nation. As such, state or nation must have in place a system or measures to create an environment for promoting public ethics, accountability and transparency in governance. Ironically, public service and position of authority in Nigeria, whether elected or appointed has become a key to unlock the national treasury unto self. This altogether depicts that our development failure is a function of bad governance defined in terms of unethical practices.

However, against all perceivable expectations, accountability and transparency, as an envisaged advantage of democratic governance still remains a hoax in the country. Things in Nigeria have not really changed from the status-quo. On the contrary, what obtain as the prevalent tendencies are bad, irresponsive and irresponsible and unethical modes of governance. A situation like this generates intense public apprehension and cynicism as to why governance based on ethics, accountability and transparency still remain serious issues in Nigeria. This is predicated on the fact that the task of building good and legitimate governance in a state that is accessible, efficient, ethical, accountable, transparent and equitable delivery of goods and services has been one of the most critical problems facing many African countries including Nigeria. One of the many challenges of development in Nigeria is not premeditated on its lack of resources to forge a common national political and economic development, but the blatant abuse of office and large scale unethical practices manifested in lack of transparency and non-accountability in governance. Virtually in all spheres of governance in Nigeria, there is absence of these essential elements (accountability and transparency) for good governance. This of course, becomes an empirically verifiable concern for the study. In other words, the study provides a platform to assess the performance of one of the institutional mechanisms; "the Code of Conduct Bureau and the Code of Conduct Tribunal" established under the 1979 Constitution and strengthened under the Obasanjo government (1999–2007) to promote public ethics practices in Nigeria. The Code of Conduct Bureau and the Code of Conduct Tribunal as enshrined in the Act that established were designed to among other things perform the following functions:

i. To receive declarations by public officers in accordance with the provisions of this Act;

ii. To examine the assets declarations and ensure that they comply with the requirements of this Act and of any law for the time being in force;

iii. To take and retain custody of such assets declaration and make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe the public ;

iv. To receive complaints about non-compliance with or breach of this Act and where the Bureau considers it necessary to do so, refer such complaints to the Code of Conduct Tribunal established by section 20 of this Act in accordance with the provisions of sections 20 to 25 of this Act (Code of Conduct Bureau and Tribunal Act CAP, C 15, 1989).

The establishment of the Bureau, as Sambo (1992) has observed, is an important instrument for monitoring the actions and behaviour of public officers to ensure that they conform to the highest standard of morality and public accountability.

Part 2 of the Act deals with the establishment of the Code of Conduct Tribunal with section 23 focusing on the powers of the Tribunal to impose punishment on defaulters. The Act specifically states that where the Tribunal finds a public officer guilty of contravening any of the provisions of this Act, it shall impose upon that officer any of the punishments specified under subsection (2) of this section which shall include any of the following:

i. Vacation of office or any elective or nominated office, as the case may be;

ii. Disqualification from holding any public office(whether elective or not) for a perod not exceeding ten years; and

v. Seizure and forfeiture to the state of any property acquired in abuse or corruption of office (Code of Conduct Bureau and Tribunal Act CAP, C 15, 1989).

The rationale for the choice of this problem is predicated on the fact that Nigeria is said to be one of the richest countries in Africa in terms of natural and human resource endowment. Paradoxically, Nigeria is rated as one of the poorest countries in the world. A further interrogation of the causes reveals a governance crisis defined in terms of unethical practices, lack of transparency and accountability in governance at all levels. A 1989 World Bank study of Sub-Saharan Africa has noted that underlying the litany of Africa's development problems is a crisis of governance (WB,1989).

It is based on the numerous socio-political and economic problems precipitated by unethical practices, that successive post independent Nigerian governments especially after Balewa government had attempted to fight the menace of ethical behaviour and abuse of office by instituting one programme, structure, commissions and a lot of legislations ranging from military decrees to Acts empowering institutions such as the Code of Conduct Bureau and the Code of Conduct Tribunal, the Public Complaint Commission, Ethical Revolution programme, War Against Indiscipline(WAI), War Against Indiscipline and Corruption (WAIC); and many more. All these were designed to fight unethical practices thereby promoting public ethics, accountability and transparency in governance. In spite of all these measures, however, unethical practices and flagrant abuse of office are most pronounced to the extent that Nigeria has earned herself one of the most corrupt nation in the world (TI,2001;2003;2010).

When President Obasanjo assumed office in 1999 with the return to democratic rule, unethical practices and corruption had reached a fatal stage or what Leo (2000) described as a tidal wave. It is against this backdrop that President Obasanjo in his inaugural speech, among other things, declared and promised to fight all unethical practices in public service to its logical conclusion and to ensure transparency and accountability in governance. It is the above philosophical intention that informed the establishment of agencies and institutions such as Budget Monitoring and Intelligent Unit (BMIU); Due Process Office (DP); Corrupt Practices and other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC); Nigerian Extractive Industries Transparency Initiatives (NEITI) and the strengthening of existing ones such as Code of Conduct Bureau and the Code of Conduct Tribunal (CCB and CCT). Despite the establishment of these institutions aimed at combating ethical problem and abuse of office, this problem has persisted to the extent that in 2010, it has been observed by the Transparency International (TI) that Nigeria has slipped from a score of 2.5 in 2009

ranked at 130th position to 2.4 in 2010 taking the 134th spot alongside countries like Sierra Leone, Togo, Ukraine and Zimbabwe (Edet, 2010:9).

The logical question that can be deduced from the above is that why has this ethical problem persisted despite these institutions? This study therefore primarily examined the performance of these bodies in promoting unethical official attitude of the political leaders and the officers between 1999-2007 in order to ascertain what factors best explain why some of these institutions established to promote public ethics are not performing.

The need for assessment has become crucial because, despite the recent diverse governmental efforts especially under President Obasanjo's democratic governance aimed at stemming the tide of ethical problem and abuse of office in Nigeria through the establishment of EFCC, ICPC DPU, NEITI, etc, and strengthening of existing institutions such as the Code of Conduct Bureau and the Code of Conduct Tribunal, the problem has proved recalcitrant, partly because these measures, apart from being half measures, are legal and institutional responses. But more crucial is the fact that these institutions directly in charge of the problem have not been thoroughly subjected to any comprehensive assessment. The first step in dealing with social phenomenon therefore, is to assess the institution concerned and in this case the CCB and CCT because by definition and statutory powers, there are designed to promote public ethics in governance.

1.2 Statement of Research Problem

The study assessed the performance of the Code of Conduct Bureau and the Code of Conduct Tribunal in promoting public ethics in Nigeria's democratic governance (1999-2007). Hence, the statutory functions of the CCB and the CCT as stipulated by the Act establishing them constitute our parameters for assessment.

The importance of establishing the Code of Conduct Bureau and the Code of Conduct Tribunal as measures to maintaining high level of morality and accountability by public officers in the conduct of government business in Nigeria cannot be over-emphasized (CCB &CCT, 1991; CCB, 2010). What appears to be a major lacuna is the extent to which the behaviour of public officers conforms to the set functions of the provisional Acts of the CCB & CCT. Similarly, there seems to be a gap or an apparent failure on the parts of government and even scholars as Rothstein (2005) argues, that there is a lack of research regarding what type of strategies are working and what explains success and failure. It is therefore, expedient as a matter of responsibility to periodically assess these measures (CCB & CCT) being put in place with a view to determining their performance. This, according to Odekunle (1978), was necessary because assessment has significant value of measuring the efficiency with which functions are performed, the suitability of means employed in carrying out the task defined and the end sought. Thus, the necessity for a periodical check is to help appraise the institutions by indentifying grey areas for improvement.

The need for assessment of institutions such as the CCB and CCT is particularly crucial in a developing polity such as Nigeria, with high degree of human and economic potentials but ironically experiencing deep poverty and infrastructural decay. Therefore, establishing institutions without corresponding mechanisms to check function-performance especially cultivating an independent culture of research orientation will amount to an exercise in futility. It was against this background that this research is conceived as a platform to empirically verify the function-performance of the CCB and CCT within the given periods, 1999-2007.

1.3 Research Questions

This study attempted to provide answers to the following research questions:

i) What is the primary purpose for the establishment of the CCB and the CCT?

ii) How much of the Assets Declarations Forms did the CCB received from public officers in accordance with the provision of the Act between 1999-2007?

iii) How many complaints did the CCT receive about non-compliance with the provisions of the Act by public officers within the period under review and what have they done to ensure compliance?

iv) What is the public perception of the functions- performance of the CCB and CCT from 1999-2007?

v) What are the possible factors militating against the effective performance of the CCB and CCT?

vi) In what ways and means can the CCB and CCT be empowered and strengthened to carry out their mandate?

1.4 Research Objectives

The study was designed to achieve the following objectives.

i) To ascertain the primary purpose for the establishment of the Code of Conduct Bureau and the Code of Conduct Tribunal.

ii) To ascertain how much of the Assets Declarations Forms did the CCB received from public officers in accordance with the provision of the Act between 1999-2007.

iii) To ascertain how many complaints the CCT received about non-compliance with the provisions of the Act by public officers within the period under review and the number tried and convicted.

iv) To ascertain what is the public assessment of the functions- performance of the CCB and CCT from 1999-2007.

v) To identify the possible factors militating against the effective functions- performance of the CCB and CCT between 1999-2007.

vi) To ascertain ways and means by which the CCB and CCT can be empowered and strengthened to carry out their mandate?

1.5 Assumptions

This study was guided by the following assumptions:

i) The Bureau and Tribunal as institutions for promoting public ethics in democratic governance in Nigeria have not performed effectively from1999-2007 due to myriads of problems.

ii) Lack of commitment and political will on the part of political leadership has affected the effective performance of the Bureau and the Tribunal's functions.

iii) Poor funding and lack of adequate manpower affects the performance of the Bureau and the Tribunal's functions.

iv) Poor publicity on the existence and activities of the Bureau and Tribunal affects the effective performance of the Bureau and the Tribunal's functions.

1.6 Significance of the Study

The issue of unethical practices and mechanisms for combating them has increasingly gained attention in literature and public policy circle but little attention has been paid to the efficiency and effectiveness of the mechanisms. As such, this study is significant in a number of ways including but not restricted to contributions to knowledge, public policy and theoretical explanations.

On the significance of the study especially as it relate to contribution to the existing body of knowledge, various studies have been done extensively on the causes, types, forms, effects and even on the fight against corruption and unethical practices in developing countries and Nigeria in particular. Theoretically, most of the studies have focused on the moral and cultural aspects of corruption at the expense of the institutions established to perform what functions and institutional frameworks designed to make institutions perform their functions effectively. Theoretically therefore, the research further stimulates theoretical knowledge about unethical practices within the context of the structural-functional paradigms with the intention to ultimately provide solution to this hydra-headed problem that seems to have defied all curative measures taken against it so far in Nigeria. This study also focuses on the institutions established to perform the function of promoting public ethics in governance which constitute our point of departure with a view to providing answer to the question as to why unethical behaviours and abuse of office has remained endemic and intractable in spite of the existence and activities of these institutions established to promote public ethics in Nigeria. This study ultimately provides a better understanding to the problem under investigation.

In addition, a general look at available studies have shown that there are no empirical study on the institution- the Code of Conduct Bureau and Code Conduct Tribunal established to

promote public ethics in governance in Nigeria. This is in agreement with Rothstein(2005) who argues that there is a lack of research regarding what type of strategies are working and what explains success and failure. This study therefore, is significant in the sense that it is the first empirical study at this level on the CCB and CCT established to stem the tide of unethical practices in Nigeria,1999-2007. Moreover, this study may also provide further insight into the Bureau that may necessitate further studies.

Finally, this study also attempted to provide an explanation on to the gap between the institutions, mechanism of accountability and transparency on the one hand, and the commitment on the part of political leadership to actualizing and realizing the functions of these institutions in order to see how effective they are in checking abuse of office.

1.7 Scope and Limitations of study

It must be stated from the outset that the scope of this study is simply restricted to the assessment of the functions performance of the Code of Conduct Bureau and Code of Conduct Tribunal based on the available records from the institutions under investigation and the public assessment of the function performance of the Bureau and Tribunal particularly from 1999-2007. As such, the functions and mandates of the CCB and CCT as defined in the Act establishing them and enshrined in the Constitution were used as our guiding indices and parameters for assessment. We are not interested in the organizational structure of the Bureau and the Tribunal, even though attempts were made to highlight them.

On the limitation of the study, it is instructive to state that the available official data from the Bureau merely contain statistical data of the nominal roll of public officers, number of ADFs distributed and submitted, number of defaulters, number of petition and complaints received,

investigated, prosecuted, discharged and convicted by the Tribunal without necessarily disaggregating them. Another limitation is the problem of accessibility of some principal officers especially the National Assembly Committee Chairmen on Public Ethics. The Chairmen of the Bureau and Tribunal were not accessible because of their busy schedule but they however ensured the researcher had audience with their Secretaries and Directors respectively who were able to avail us with some vital document required for this analysis. The Bureau and Tribunal lacked empirical data on the budgetary allocation of the Bureau and how much is needed to perform effectively for the period under investigation. Several frantic efforts were made to get budgetary allocations and the required fund for effective performance but all proved abortive. However, we were able to get mere allocations from the budget office which enabled us to have an idea into how much was budgeted for the Bureau for the period under investigation. Other limitations encountered in the course of the study are time, access to some NGOs that the researcher wanted to interview and financial constraints. In fact, the above mentioned challenges provided an opportunity and motivation for the researcher to make its own contribution in the quest for solving the inherent problems of abuse of public office and corruption in Nigeria. However, the researcher is able to reasonably use the data available so that the outcome is not seriously affected by these limitations. But for the purpose of objectivity, it is instructive to note that the study of this magnitude cannot be entirely perfect without some limitations.

1.8 Organization of Chapters

Chapter One which is the Introduction provided a general introduction to the study and embraces subject matters such as the general background to the study; statement of research problem, research questions, objectives of the study, basic assumptions and significance of the study.

Chapter Two contains Literature Review and Theoretical Framework. This chapter focused on the detailed review of related and relevant literature thematically on the subject matter of the study including ethics, accountability, transparency and democratic governance as well as the theoretical frame of analysis that will guide the study. Here the study adopted the structural-functional theory as its frame of analysis.

Chapter Three explains the Research Methodology. This chapter focuses elaborately on the procedural method adopted for the study. Basically, the chapter encompasses the description of the location area of the study, sources of data used in gathering information on the subject matter, techniques of data collection and sampling procedures and techniques of data analysis.

Chapter Four focuses on the overview of attempts made by successive post independent administration in Nigeria at combating unethical behaviours with the reasons for their success and failure highlighted

Chapter Five focuses on the Evolution and Mandate of the Code of Conduct Bureau and Code of Conduct Tribunal. It is essentially the background chapter with focus on the justification for the establishment of the CCB and CCT, its mandate, functions and modes of operation.

Chapter Six is centred on Data Presentation and Analysis of the Performance Assessment of the Code of Conduct Bureau and Code of Conduct Tribunal (1999-2007). It focuses on the presentation of the data generated from the documentary records of the institutions and the analysis is interwoven with the In-depth interview conducted in order to complement and strengthen results and findings. This chapter also reviewed the research questions vis – a – vis the empirical evidence in the body of the research and highlight the extent to which CCB and CCT have contributed to promoting public ethics in Nigeria's democratic governance or otherwise.

Chapter Seven is the Summary, Discussion of findings, Conclusion and Recommendations based on the findings above.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Literature Review

Public ethics has increasingly attracted the attention of scholars and officials in the public policy circle. The governance challenge we face in Africa as Kagame (2006) has observed is no less than changing fundamentally, our political culture towards what he called "politics of ethics". Politics of ethics is therefore essential for continent's social, political and governance transformation. Public ethics within the purview of this work simply refers to principled behaviour and purposeful responsibility by those in political (elected or appointed) office. In the light of the foregoing therefore, this section thematically and theoretically reviewed some related and relevant works in relation to the subject matter under investigation.

Thematically, a comparative study of ethical values required in public service in some European countries such as UK, Norway, and Slovakia and non European countries such as Australia reveals that ethical values such as accountability and transparency are paramount in all these countries and are responsible for their high governance profile (Ezeani, 2006). In African states, core public service values in some of the most thriving African countries such as Ghana, South Africa and even Botswana includes accountability and transparency. Having identified the centrality of accountability and transparency in these thriving states, it is important to look deeply into what these concepts are all about and their relevance to promoting ethical behaviour in democratic governance. As such, this review will be done under the following sub themes: Public ethics, Accountability, Transparency and democratic governance.

2.2 PUBLIC ETHICS

The primary function of every government over the ages apart from providing the internal and external defence of the community has been anchored on what Hambagda(2011) has described as to "hold the ring" so that individuals and their organizations can compete or carry on their business of living freely and fairly. In this contention therefore, the government sets the norms, ethics and code for social behaviour and the sanctions for their enforcement. In addition, even though virtually in every country of the world there is an increasing interest and recognition of the importance of ethics in governance, Africa today can be said to be facing an ethical crisis to the extent that Rasheed (1995), for instance noted that the lack of accountability, unethical behaviour and corrupt practices have become so pervasive, and even institutionalized norms of behaviour in Africa to the extent that one may conveniently speak of a crisis of ethics in African public service. The unethical decay in public service has rekindled a kind of resurgence of interest in ethics in governance particularly in countries where lack of accountability, unethical behaviour and corrupt practices have become pervasive.

The issue of public ethics in governance particularly in Africa has attracted the attention of scholars, public policy and international organizations. This is because ethics is of utmost importance in the public service as it concerns itself with the acceptable standards of behaviour for government officials. Ethics are important for public servants as blood for the body (Raga and Taylor, 2005). It is within this context that Faboyede (2009) has noted that we are in the era in which the economic progress and the fortune of any nation are inextricably bound to the degree of adherence to universally accepted ethical values. The enforcement of ethical values therefore is the starting point for good governance; as unethical practices and behaviours are powerful enemy of good governance with gross negative impact and implication on democratic governance.

Generally, ethics provides man with guidelines for regulating his conduct or actions in life. This is the essence of the code of conduct for public officers which government provides for its employees. Ethics therefore helps to influence our conduct for good behaviour. Ethics can be defined in several ways such as the mores of a given society as Sociologists observe them; most applicable to our study is that which sees ethics as a systematic code of moral principle such as that of the Roman Catholic Church; and also a philosophical theory about the rationale of moral action, such as utilitarianism. Hobbes (1968) further sees ethics as concerned with standards of conduct among people in social groups. Ethics in governance refers to moral standards in the public service. Theoretically ethics and ethical practices encompasses what government ought to or not to do in a given circumstances. It reflects the standards and values of the society. Ethical behaviour in public service should reinforce the democratic process by ensuring that representatives (elected or appointed) and officials respect these ethics.

Generally, ethics and issues of right and wrong have been concerns of society for as long as societies have existed; as such the question of ethics can be linked with the history of mankind. The origin of ethics therefore, has a Meta ethical basis but after centuries of debates on its origin, it can be observed that from empiricist perspective, ethics can be seen as a behaviour advocated consistently throughout a society to be expressed as codes of principles. Ethics have been referred to as just or right standards of behaviour between parties in a situation (Beu and Buckley, 2001). In another development, Barry (in Beu and Buckley, 2001) has defined ethics as that which constitute good and bad human conduct; and (Beu and Buckley,2001) sees ethics as to what is good and evil, right and wrong and thus what we ought to do and ought not to do. Furthermore, Raga and Taylor (2005) have observed that ethics deals with the character and conduct and morals of human beings. The emphasis in this definition is that it deals with the good or bad, right or wrong behaviour and it evaluates conduct

against some absolute criteria and puts negative or positive values on it. To corroborate the above assertion, Guy observes that ethics is both a process of inquiry and a code of conduct. As a code of conduct, he added it is like an inner eye that enables people to see the rightness or wrongness of their actions (Guy, cited in Raga and Taylor,2005). In conclusion therefore, Hondeghen (cited in Raga and Taylor,2005) has written that ethical behaviour is essential for an effective and stable political-administrative authority as well as social and economic structure. In a nutshell and as operational guide for this study, ethics refers to codes of conduct that guides the behaviour of public servants in governance.

Public service ethics refers to principles and standards of right conduct in the administrative sphere of government. Ethics, Agbor (2009) has observed is concerned not only with distinguishing right from wrong and good from bad but also with the commitment to do what is right or what is good. According to UNDP (2001), ethics refers to a system of shared values and norms that delineate how public servants as agents of the state and as members of the state should exercise judgment and discretion in carrying out their official duties. It therefore implies that ethics is a form of code that guides the behaviour of individuals, particularly public officers in the discharge of their duties. The relationship between ethics and accountability suggests that accountability will have effect on ethical behaviour. One of the way to do that is to ensure that public servants or office holders be held accountable for their actions. Accountability, therefore, serves as a mechanism through which organizations can control their employee. Thus ethics and accountability fit well together as both are methods of social control and should be studied together. Hence, Adeyinka (2009), opined that an ethical environment is also a precursor to accountability-who accounts for his actions when no one asks for it? As such, when a society sustains a moral environment, accountability becomes a part of national

psyche. It works as an automata and it is ingrained into the national ethos to the extent that institutions and people build their activities around accountability

2.3 Traditional Ethical Values in Nigeria

In trying to establish the causes of the prevalence of unethical practices in Nigeria, Ekeh(1975), has observed that the first is the absence of a clear dichotomy between the primordial public and civil public. While the primordial public refers to the traditional Nigerian society and its values which may not accept certain behaviours unethical, the modern requirements of a rational public service may frown at such values and behaviours. For instance, while traditional Nigerian values may not frown at the giving and acceptance of gifts before services are rendered, this may be regarded as ingratitude. Even in the modern society, a small gift and its acceptance in so many societies today are not frown at provided it is not solicited for after services has been rendered.

The Nigerian traditional value system as painted in the celebrated work of Chinua Achebe, Things Fall Apart, has the story of a strong and determined young man but of low birth that goes to the great man of his village to ask for a favour. He seeks the loan of yam seeds to plant a first harvest of his own and brings a cock, a pot of palm wine, a kola nut, alligator pepper and offering them to him he says: our father, I have brought you this little kola. As our people say, a man who pays respect to the great paves the way for his greatness. I have come to pay my respect and also to ask for favour. In a similar development, in his autobiography, the well known Nigerian politician of Yoruba extraction, Obafemi Awolowo, recounted the visit of the British Administrative Officer or Ajele (as he was called) to the village of his childhood. The Ajele would pitch his tent in the market place and in the days before his arrival, the Oba or local chief would have made a public proclamation for Firewood, Yams, Chicken, Water and other accessories to be provided in plenty in the market place for the use of the Ajele. The two scenarios painted above created a dependency relation and a patron-client tendency and

ethnic loyalties which underlie the contemporary corruption in Nigeria. No wonder the modernist idealists associates unethical practices with certain acts of traditional practices such as gift-giving, ethnic loyalty and other parochial and primordial tendencies which tend to encourage corrupt and unethical practices. In his celebrated work, Colonialism and the Two Publics in Africa, Ekeh(1975), described an average Nigerian to have belonged to two publics(a civic public- which in our contemporary political parlance can be referred to as the Nigerian state) from which they gain materially but to which they give only grudgingly. On the other hand they belong to a primordial public(ethnic or religious cleavages) from which they derive little or no material benefits but to which they are expected to give generously and to give materially. He further added that issues to which the inevitable confrontation between the two publics foment are varied but he restricted himself to three out of which two are important to this study. These are tribalism and corruption. Corruption to him arises directly from the amorality of the civic public and the legitimation of the need to seize the largesse from civic public in order to benefit the primordial public.

In the light of the foregoing, behaviours which are considered acceptable and legitimate in the traditional Nigerian societies become unacceptable when viewed in the eye of modern reality. Even though there is no traditional culture and values that encouraged corruption and unethical practices, however, Ribadu(2005:15) noted thus:

> The culture of giving and accepting gifts which aided the rapid fermentation of the corruption sub-culture was taken to unacceptable levels. It is normal to exchange gifts at social or religious events. This culture has bred a deep craving in many a Nigerian, who has come to see every person whose circumstance they consider superior to theirs, as obligated to 'dash' them something every time they meet. The reverse of the feeling makes the 'big man' feel he is duty bound to satisfy that craving. This social circumstance sets the environment for corruption as there is always demand and satisfaction of demand by persons who want to subvert the system for personal gains. In many instances, they take from the commonwealth to satisfy the demand for gratification. And the irony of it all is that in most cases, the giver and the receiver do not feel they are doing anything wrong. That is many traditional rulers do not bat an eyelid to gifts from public officials even when it is apparent that such gifts are

> questionable and do not emanate from legitimate sources. So long as our custodians of morals and culture are privy to corrupt gifts, we are doomed as a people.

It is against the above backdrop that No wonder Otite(1986) noted that corruption in Africa is an adaptation of the traditional gift-giving to meet new circumstances. However, traditional African ethical values distinguish gift-giving and other forms of social exchanges from bribes and corrupt practices. Where gift-giving is made part of modern transactions, the real intentions to infringe and pervert rules may be concealed by continuity with an old custom. Hence, asking, giving and accepting bribes clothed in the garment of gifts make it obligatory for the individuals and groups involved to behave in ways that negate due process, transparency and accountability.

2. 4 Accountability

The contemporary wave of transition from authoritarian rule to democratization has also witnessed a phenomenal awareness that liberal representative democracy requires that democratic government are not only accountable to the citizenry but must be subject to restraint. Hence, there has been enormous awareness of the need for ethics, accountability and transparency in both private and public affairs in the world today as it is widely accepted that accountability is a key element not only in the process of delivering good governance but essential for the efficient functioning of all organization in a democratically governed state (Achegbulu, et al, 2007). More so, it has become an important objective because it is obvious that good governance and sound public consideration is necessary for sustainable democracy and development. Accountability in its broadest sense forms the basis of democratic governance and can ensure that decision of government reflect real public priorities and are response to the needs of the people.

According to UN (2001), corruption and unethical practices in the public sector have negative impacts on national development, resulting in loss of confidence in public institutions and an erosion of

the rule of law itself. Accountability, therefore, is the obligation to answer for the fulfillment of assigned and accepted duties within the framework of the authority and resources provided (Karnaghen and Langford, 1990). It is also the notion that those who exercise public power in society should be answerable for the exercise of that power. This assertion connotes that those who exercise political power or office holders must be answerable and accountable even though he did not state who the office holders should be accountable to; but in a democratic government which constitutes the focus of our study, public office holders should be accountable to the people.

It must be clearly stated at the outset that our understanding of accountability must transcend the financial reporting to a much broader concept based on the rights of the people to a transparent and performing government and public sense. Thus, in democratic governance, accountability has increasingly become a core responsibility to provide real value in public resource utilization, provide citizen satisfaction, and take responsibility for effective actions and adequate explanation. However, in Nigeria's democratic governance, particularly from 1999-2007, the reverse has been the case with the governed having little or nothing to show as democratic dividends.

Conceptually, accountability is a concept which has flooded the Political Science and Public Administration literature for the last decades; we therefore have no reason here to debate on the meaning of the concept but we do want to separate it from transparency and avoid ambiguity. DFID's white paper (2006), describes accountability as the ability of citizens, civil society and the private sector to scrutinize public institutions and hold them to account. This includes ultimately opportunity to change leadership by democratic values. This definition places the power for accountability in both government and non- governmental institutions and even the citizenry or the people. But to what extent have the people being integrated into the process or mechanisms designed to promote accountability and transparency still remains mere dream. Accountability can also be defined as the extent to which a

government or an agency is responsible to its principal or patron. In democratic governance, the principal or the patron here is not the president or what in contemporary political parlance is called God-father but the people with whom democratic power lies. Accountability can also be seen as a process or the avenue by which governments in particular can be made limited entities; they cannot act or rule in absolute or arbitrary terms nor do they have unlimited powers except in a dictatorship or totalitarian regimes. A government that is accountable is one that rules constitutionally, observes procedures, and is subject to some checks and balances (Mikailu and Yaqub, 2003). Accountability, according to Bovens (2007), explains the relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose question and pass judgment and the actor may face consequences. Adeyinka (2009) has further noted that accountability involves either the expectation or assumption of account – giving behaviour. The question inherent in this position is that he did not state who should give the account, under what platform and how this account-giving behaviour can be actualized. Accountability also refers to an acknowledgement of responsibility involving the giving of information and explanations about past and current activities (Hambagda,2011). This definition implies a position of stewardship or trusteeship on the part of leaders for an undertaking. Any individual, group and institutions to whom are entrusted resources which belong to others are in stewardship positions. According to Burall and Negligan (2005), holders of public office are accountable for their decisions and actions to the public and submit themselves to society if appropriate to their office. As such, organization, institutions and office holders should be accountable to those who will be affected by their decisions or actions. While he went further than Adeyinka by stating who should give this account, he did not also state under what condition and the process of actualizing it. Febojede (2008) sees accountability as the existence of checks on leadership to ensure responsible behaviour that will conform to the wishes of the governed.

Egwu (2003) has argued that accountability simply means that public officials at all levels must take responsibility to their actions and cannot act as laws unto themselves. Public officials must render account for their stewardship either to the general public or the constituency, they seek to represent. He also added that closely related to accountability is transparency. Egwu's position gives a graphical representation and illustration of what it should be and how it can be actualized yet, in the Nigerian case, most if not all the institutions established for promoting accountability and transparency have not been domesticated at local level as it is literally non-existence there; yet, there is high level of abuse of office and unaccountable behaviour at the local level and the majority of the victims of the ethical problem are at the local level. Dunmoye (2007) defines accountability as involving the establishment of a pattern of control over receipts and expenditure permits, a determination either by the executive or the legislative, or both, that public monies has been used for public purposes. Even though financial accountability is very crucial to accountability question, it must transcend this financial configuration if it must make relevant impact on the lives of the people in democratic governance.

Accountability is a precept requiring that government's action be reported, explained and justified to the people from time to time on a consistent basis premised on the understanding that governance is a contract between the ruler and the ruled. An accountable government is one that carries the people along and therefore can effectively see its policies and programmes implemented (Okeke, 2004).The extent to which it has achieved that in Nigeria still remains rhetoric. An accountable government is one that is free from corrupt practices, and likely to confront the menace of corruption. Nigeria's democratic government cannot be said to be corruption free as cases of mega corruption are still traceable to the administration under investigation. For instance, the PTDF report saga, the National Identity Card fraud involving SAGEM S.A of France,$180 million (N21billion) briery, in respect of the nation's Liquefied Natural Gas plant in Bonny ,the 2004 missing Ship saga, the SOLGAS

and Ajaokuta Steel scandal, the NITEL – Pentascope management contract abuse, among other glaring cases of official squandermania and gross national misconduct vis-à-vis culture of impunity appears to be more rampant regardless of the existence of various institutions designed to check these abuse of office. UNDP (2006) defines accountability as the ability to hold public officials and their representatives to a standard of conduct that is clearly in the public interest. This definition requires rules of conduct that are transparent, straightforward and broadly accepted in society, as well as administrative and legal processes to discipline or remove officials who do not respect such rules. In his own contribution, Etzioni (1975) views accountability as associated with three popular meanings:- Greater responsibility to elected superiors; greater responsiveness to community groups, and greater commitments to value and higher standards of morality. Even though they are not mutually exclusive, our emphasis is on the third one which has direct linkage with ethical values in public service. In addition, Mckinney and Howard (1979) see accountability as responsibility to account for stewardship of a resource or authority. Even though he did not tell us who the steward should be accountable to, it emphasizes the need for office holder to not only be responsible but must be accountable to people, especially, in democratic governance.

In the light of the forgoing, it can be observed that accountability is the obligation which devolves on the recipient of a delegated authority, power, or resources to render account to the giver or delegate of funds, authority, power or resources, leading to the eventual discharge of the recipient or delegate. Bird (1974) explains accountability thus: every steward is held accountable to the person or body which entrusted resources to him, whether the latter is a superior standard or the ultimate owner. Accountability therefore, places two obligations upon a political office holder who must render an account of his dealings with the stewardship resources, and then he must submit to an examination (usually known as the audit) but in our case, the CCB and T of that account by or on behalf of the

person or body to whom he is accountable. In other words, the office holder must subject himself to an audit and in this regard, he has a duty not only to allow the audit to be carried out, must provide the auditor necessary information and evidence to permit an independent verification and monitoring of the account being rendered and the claims made in the report. More-so, even though accountability is an indispensable ethics in politics ensuring that politicians or power holders or those who are given political power should utilize such powers responsibly and in a manner that will guarantee the highest benefits to the people; it is a much neglected even abused concept in the political behaviours of the Nigerian political administration despite the existence of diverse mechanisms for accountability and transparency. This is partly because too often, public officials tend to forget that accountability is meaningless outside the reference point of a public to which the public servant is accountable. Consequently, accountability mechanisms are designed in total disregard to the need to facilitate a public or people- based accountability mechanisms.

Furthermore, accountability involves something more than just having one's actions publicly exposed. In case of misconduct, accountability should imply that some kinds of sanctions are imposed on the actor. Being held accountable involves paying the price for one's actions. The probability of accountability therefore is a function of the probability of publicity (in terms of information and access to it) and the existing sanctioning mechanism which in democratic governance has to do with the ability of the electorate or the people to choose or to remove the ruling government or the said public office holders. The question then is, how strong are these sanctioning mechanisms in Nigeria with which the electorate and the people are enabled to remove office holders who are found wanting in this regard.

Dunmoye (2005) has identified the following as evidence of lack of accountability and transparency in government. Massive unfinished public projects, outright bribery, fraud, obstruction of justice, favouritism /cronyism, acceptance of gifts and entertainments, questionable campaign funding

and lobbying; inflation of contracts funds and figures and lack of respect for public funds, etc. It results in the diversion of scarce resources meant for development of the country, the loss of confidence in public institutions and leadership and erosion of the rule of law. The existence of the above unethical practices vis-à-vis these mechanisms is also a reflection and indication that these institutions needed to be interrogated in other to ascertain why the prevalence of these abuse of office. Elaborating further, Dunmoye (2005) added that there are several components of accountability and these include: Stewardship, presentation of accomplishment to citizens; accounting to supervising agency; probity and legality; policy accountability and external and internal audit.

Political accountability which is our focus in this study is characterized by responsiveness of the government, public office holders to the constituent, the general public, agency, and clientele and other special interest groups. Political accountability is central to the concept of democracy, as it encompasses accountability of the state to society. Thus, political accountability is about those political office holders being answerable for their actions to the citizens whether directly or indirectly. This, Ole (2001) has noted that a polity is democratic to the extent that there exists, institutionalized mechanism through which the mass of the population exercise control over the political elites in an organized fashion. This supposes that the true test of democratic government is in its ability to provide mechanisms or institutions with which the people can hold political office holders accountable for their stewardship.

It also refers to the means by which public officers whether political functionaries or bureaucratic officials are answerable for their actions while in public office. In addition, Raga and Taylor, (2005) have noted that public officials who are employed in complex government departments have to be accountable to their immediate superiors, the political leadership and the public at large. In another development, Raga and Taylor (2005) noted that public accountability rests both on giving an account

and on being held to account. A readily practical example that can be obtained according to Omelek (2008) is the British government where the executive (Cabinet) is collectively and individually responsive and accountable to the parliament in the sense that it must answer questions about its policies and may ultimately be repudiated if found guilty.

From the foregoing, we can conclude that accountability involves both the political justification of decision and actions, and managerial answerability for implementation of agreed tasks according to agreed criteria of performance. It also refers to the perception of defending or justifying one's conduct to an audience that has rewards or sanctions authority, and where rewards and sanction are perceived to be contingent upon audience evaluation of such conduct. However, the core governance issue in Nigeria revolves around the escalation of corruption, limited accountability and transparency. Inadequate adherence to accountability has led to the abuse of office in the political, economic and administrative structures of government. Corruption and abuse of office has become the dominant pattern of socio-economic and political behaviour because official rules and regulations are not enforced. It can therefore be argued that accountability is the fundamental prerequisite for preventing the abuse of power and for ensuring power is directed towards the achievement of efficiency, effectiveness, responsiveness and transparency. Weak accountability mechanisms tend to facilitate corruption and other abuse of office and thereby undermine governance generally.

Democratic governance, to a large extent, is attained or exists in a country where all the various arms and institutions of government approach their responsibilities in a transparent and accountable manner. Persistent Obasanjo's democratic reforms and style of governance were intended to bring about efficiency, accountability, transparency, responsiveness and better democracy. The quality of accountability system and practice will therefore largely dictate the extent to which abuse of office can thrive within a society. Where accountability systems are weak or don't operate, an impunity can

develop that allows corrupt practices to become embedded. Conversely, where accountability systems are strong and robust, the opportunities for corrupt practices are minimized and the risks involved in corrupt practices become much greater. In an institutional setting, Okeke (2004:229) has suggested three conditions necessary for ensuring accountability, and they include:

- There must be an agency to which resources and duties have been allocated and assigned.
- There must be individuals within the agency who must be held responsible and answerable for proper use of the resources or discharge of duties of government.
- There must be adequate control environment within the organization which should guarantee honest and accurate use of resources entrusted to the official and that the resources are used for public good.

In the light of the above definitions and illustrations given by these scholars, it can be deduced that they share one common feature which is that; the representatives of the people whether elected or appointed, have the responsibility of exercising their powers and show both responsiveness and commitment to higher standard of ethical behaviour and the existence of institution to check if they go contrary to the expected rules. Hence, the need to assess the role performance of the Code of Conduct Bureau and Code of Conduct Tribunal in the discharge of their constitutional responsibilities is very important.

2.5 TRANSPARENCY

Accountability and transparency constitute core values of democratic governance. This is because the two of them are interrelated and reinforcing ideas. Accountability cannot be enforced successfully without transparency and rule of law. Transparency is therefore a key concept.

Transparency refers to openness in the conduct of public affairs as opposed to a regime hiding under the myth of official secrecy and the arrogance of the ruling elites and bureaucrats. Secondly, and

more importantly, it refers to the common-law requirement. Dunmoye (2005) sees transparency not only as judicious use of public funds, but also the process of rendering clean and clear account of such usage to the stakeholders. It also entails that elected officials comply with laid down regulation in financial and other transaction and other related activities within and outside local authority. Transparency is about openness to public scrutiny and clarity in the decision-making process in a government. It often refers to various measures of public information disclosure and access such as freedom of information acts, administrative procedure acts, "government in the sunshine" acts, amongst others (Ezekwesili,2011).She further added that transparency is the cornerstone of good governance and it is enhanced as a way to promote accountable actions by government. Transparency as such implies the release of information about institutions that is relevant to evaluating those institutions and by providing easy public access to information on the workings of public programs. This information enables citizens to demand certain standards, to monitor service quality and to challenge abuses by officials. For instance, some data suggests that improving citizen access to information and giving citizens a greater right to action can reduce corruption. As discussed above, in the mid-1990s, a survey revealed that primary schools in Uganda received only a small fraction of the funds allocated to them by the central government. As this evidence became known, the central government began to publish newspaper accounts of monthly transfers of the capitation grants to districts, so that school staff and parents could monitor local officials. It was later discovered according to Jekob, (2005) that the newspaper campaign brought a large improvement. In 2001, schools received an average of 80 percent of their annual entitlements. Indeed, transparency enhances accountability.

Transparency is also conceived as a term that connotes the state of being open to the people. It is the capacity to trust people including subordinates in order to carry people along. It refers to a condition of complete and free flow of information. In addition, Akinsanya (2000) sees transparency as

the ability of those who are not involved with the actual policy making or law making process works and be able to monitor that process. A transparent person therefore, is one with clean hands with a tract record of honesty and probity. In the world of transparent persons, the people and the nation come first, and self is last. People are treated fairly and justly, because the rulers are upright and not easily swayed by ethnic, religious and nepotic sentiments. Essentially, the more consolidated a democracy, the more transparent the democracy and lack of transparency leads to a lack of public accountability and it tends to foster abuse of office.

In the field of International Relations, transparency has been acknowledged for its potential to contribute to regime effectiveness. It has the capacity to reduce the risks of conflicts and for contributing a potential substitute for the poor prospects of democratic accountability. Transparency has been observed to be one of the most important antidotes against corruption and abuse of office. It is indeed an important remedy against corruption but only if the release and spread of information to the public is to affect the behaviour of potentially corrupt government officials, the public must have some sanctioning mechanism in its hands that is, there must be a real possibility of accountability.

The concept of transparency captures the accessibility of information. It literally means that it is possible to look into something to see what is going on. A transparent institution is one where people outside or inside can acquire the information they need to form opinion about actions and processes within these institutions. Transparency will be a less effective medicine against corruption when it is not accompanied by institution or other circumstances favourable to achieving accountability.

2.5:1 Types of Transparency

Lindstedt and Marvin (2000) have identified two types of transparency. These are: Non- Agent Controlled Transparency and Agent Controlled Transparency.

Non agent controlled transparency refers to a free and independent press, willing and able to investigate and report on corrupt behaviour on the part of government officials. Agent controlled transparency refers to information released by the agent in response to freedom of information acts and other requirements on the agents to make information about its activities available.

The relationship between the two types of transparency can be summarized in a way that agent controlled transparency may reduce corruption because it makes it more complicated to engage in corrupt behaviour. It requires the power holder to demonstrate detailed figures on budgets and spending and implies that an agent who wants to proceed with more corrupt activities must put more effort at conceding those. Those corrupt actors will have to find ways to hide illegal money transfer and come up with credible expenditures in public records on where the money went and why certain public policy programme did not achieve more in terms of output compared to the spending that went into the programme. Non agent controlled transparency on the other hand rather than making it more complicated for corrupt actors makes it more dangerous. This is because fact – digging reporters and other whistle blowers are not restricted to public record but may also, if they are successful, release secret files and witnessing documenting the agent's behaviour. The existence of press freedom implies that there is already a risk for corrupt power holders that information about their corrupt activities may be released. Transparency International says Finland is the least corrupt nation worldwide. Such high ranking is linked to the Scandinavian dominating culture of transparency concept which would be required that political and public office holders should publicly declare all their income and wealth before and after holding public office. Transparency and accountability are therefore coterminous in the sense that both concepts seek value for money intended for the execution of public policies and public finance. The two therefore underscore the superiority of the public will over private or personal interest for those engaged in the provision and delivery of services to the general public.

2.6 DEMOCRATIC GOVERNANCE

Democratic governance is a combination of two separate but mutually interrelated concepts, democracy and governance.

Democracy varies from situation to situation but in almost all circumstances, Ayee (1998) has noted that democracy can be conceived as involving the guarantee of social justice and government accountability. Democracy is considered today as the most desirable form of government and man's best idea of governance on earth. However, it is a highly contested concept that does not lend itself to any universally acceptable definition due to the dynamic nature of the society, ideological, cultural and historical conceptualization that underpins it. However, a number of scholars in political science and other social sciences have formulated theoretical definition of democracy in an attempt to distinguish it from other forms of government. For instance, Robert Dahl's (1971) conviction of the non-existence of perfect democracy led him to emphasize the continuous responsiveness of the government to the demands of its citizens as the main characteristics of a democratic system. Democracy in broad terms has been defined as a system of governance in which the rulers are held accountable for their actions in the public realm by citizen, acting indirectly through the competition and cooperation of their elected representatives (Dahl, in Ayee, 1998). Konarie, (2005) has conceived democracy as a government mechanism, based on institution and whose rules are to protect individuals and the community against all risks of dictatorship and authoritarianism by those in power. It is therefore, a protective and preventive mechanism. As a mechanism for the management of human beings, democracy is reflected in transparency in decision making by government as well as in their obligation to be accountable to the population for their actions. This study will adopt Schimitter and Karl (1991)'s definition. According to them, modern democracy is a system of governance in which rulers are accountable for their actions in

the public realm by citizen acting indirectly through the competition and cooperation of their elected representatives.

While democracy has been adjudged by many as the best form of government, good governance as defined in terms of ethical behaviour, accountability and transparency is necessary to help a country derive maximum benefits from democracy. To serve in the name of democracy is to acknowledge that every public servant is a citizens and every citizens is expected to serve the common goal. Consequently, one cannot discuss the intricacies of democratic governance without addressing the public servant on whom ultimate responsibility rests to insure and ensure that public policies are faithfully executed. The effectiveness of every form of government depends wholly on the manner in which the corresponding administrative system faithfully embodies the fundamental ethical values that legitimizes the relevant form of governance. In the case of democracy, it implies that governance at all levels is expected to embrace the fundamental ethical values that constitute the cornerstone of democratic teleological vision. Ethical values therefore, are deeply and widely rooted in democratic government. Good governance therefore is a requirement for the sustenance and maturation of democracy. The ultimate test of the survival of democracy is good governance which leads to the rapid transformation of the lifestyle of the people.

2.6:1 GOVERNANCE

The concept of governance is not new but as old as human civilization. Simply put, it means the process of decision – making and the process by which these decisions are implemented. Governance conceptually is the exercise of economic, political and administrative authority to manage the affairs of a particular state at all levels. It comprises the mechanism, processes and institutions through which citizens and groups articulate their interests, asserts their rights, meet their obligations and mediate their

differences. As such, governance is different from mere government or administration and it encapsulates political values and processes like accountability which is not only necessary but part and parcel of every governmental or administrative process.

Governance, like other concepts, is also a contested one. As Pierre and Peters (2000) have observed, it is a concept that is notoriously slippery, frequently used by social scientists and practitioners without concise definition. However, the range of definitions that have surfaced can be subsumed under two distinct but interrelated categories. On the one hand are those who view governance in a technical sense. Here, it is a concept borrowed from the corporate world which implies the efficient management of state institutions. Issues of public accountability, transparency in government procedure, accountability, rule of law and public sector management are emphasized. The essence of this governance approach is to discipline the state and its institution for economic purposes. Hence, Stoker (1998) has noted that governance is the acceptable face of spending cuts. Governance is the political constraint of a minimalist state.

The second perspective to governance is a holistic one that transcends the state and its institutions. Here, governance is seen as the process of steering state and society towards the realization of collective goals. This definition is centred on the dynamic but often contradictory relationship between the state and society (people). To corroborate this position United Nations Commission for Africa (UNECA, 1999) defines governance as a process of social engagement between the rulers and the ruled in a political community. Its component parts are the rule making, standard setting, management of regime structures and outcome and results of social parts. Huther and Shah (in Ezekwesili, 2011) see governance as a multifaceted concept encompassing all aspects of the exercise of authority through formal and informal institutions in the management of the resource endowment of a state. The World Bank in a recent study cited in Ezekwesili (2011) in line with this definition sees

governance as the manner in which public officials and public institutions acquire and exercise the authority to provide public goods and services, including delivery of basic services, infrastructure, and a sound investment climate. The UNDP (1997) views governance as the totality of the exercise of authority in the management of the country's affairs comprising of the complex mechanism, processes institutions through which citizens and groups articulate their interests, exercise their legal rights and mediate their differences. Governance presupposes the process of social engagement between the rulers and the ruled in a political community. Muazu (2005) conceives governance as the act of governing (to rule, direct, guide, control, decides or determine the affairs of the state) and exposing political authority in directing people in the affairs of the state.

Fundamental to the notion of governance is the ability of the state to establish functioning institutions for governance to take place. As such, governance fundamentally defines the partnership and relationship between the rulers and the ruled aimed at the efficiency of the states structure. According to Ezekwesili (2011), there is a synergy between and among the various elements of governance as there are mutually interdependent. She further added that this creates a virtuous cycle of governance. For example, transparency enhances participation which subsequently assures accountability. Similarly, with social equity comes an improvement in citizens' participation and accountability, while transparency is more or less a precondition for addressing social equity issues effectively. However, democracy has been linked to good governance because the later has the ingredients, the functional and institutional prerequisite as well as the building blocks of the former. Indeed, the two concepts are inseparable because their features reinforce each other. The two concepts have been merged into what is now called democratic good governance (Ayee, 1998).

2.6:2 DEMOCRATIC GOVERNANCE

Democratic governance refers to the science of organizing government at all levels and the process of coordinating direct mass and popular perception in affairs that relate to the totality of their well – being. Social and economic well being of the people constitute part of crucial issues of democratic governance as such, the participation of the people (Abbas, 2007). Democratic governance also revolves around accountability, legitimacy and responsiveness, among others. There are historical examples such as Germany after unification of the East and West Germany and Japan after the Meiji Revolution where "good governance" prevailed during the drive towards industrialization but no democracy to talk of. Good governance as described by the World Bank is a response to what they described as gross mismanagement by African governments. This postulation is more technocratic than a response to the social reality of the people. As such, there could be good governance as defined by the WB without democratic governance. Democratic governance therefore, implies, over and above technical efficiency and probity, regular interaction between government and civil society and free participation by the latter through its institutions and popular organs.

It is generally acknowledged from existing literature that constitutional democracy is the basis for good governance, as good governance is the antidote for corruption. As such, the enthronement of democratic governance at all levels in 1999 was widely expected to usher in a political culture based on justice, equity, sense of belonging, participation and involvement, tolerance, transparency and accountability in the conduct of the affairs of our nation and massive improvement in the welfare of the Nigerian people. A critical look at the period under study reveals what Jega(2001) has described as the classical problem of a crisis rising expectation. This, he added is predicated on the fact that people are becoming restive and impatient with the slow pace of the delivery of the gains or dividends of democracy and being compounded by the expected sociopolitical and economic gains of democracy

which have become too distant and hazy on the horizon. This is validated by the level of poverty that is on the increase despite the administration's reform agenda designed to eradicate poverty and the consistently poor governance and transparency rating by local and international organizations. It is obvious therefore, that governance issues are the bane of national development. In order to break this cycle, Fagbadebo (2007) has noted that accountability and transparency have to be guaranteed and the people have to be involved in issues that affect their lives. Transparency and accountability in governance will increase the sense of national community or belonging as well as the level of system effect.

It has been theoretically observed that democratic accountability and transparency constitute a formidable basis for curbing abuse of office and corrupt practices. This is because fundamentally, the universal declaration of Human Rights adopted by the United Nations in 1948 declared that the political rulers and government officials are both held accountable to the ruled for their actions through clearly formulated and transparent process. In Britain for instance, accountability has been formally identified by government since 1995 as one of the seven principles of public life. Leaders and public office holders are therefore expected to be responsive, responsible and accountable before they can be said to be effective. Most anticorruption programs rely on legal and financial institutions-judiciary, police and financial auditors-to enforce and strengthen accountability in the public sector. However, in many poor countries, the legal and financial institutions are weak and often corrupt themselves and as such, could not reduce corruption and unethical practices.

The complexity surrounding unethical and corrupt practices has prompted some anti-corruption scholars to pose question as to whether democratic regimes are better than authoritarian regimes in combating corrupt practices and ethical problems. In her contribution, Ackerman (1999) has argued that ideally, democracy possesses the potential to reduce unethical and corrupt practices more

than authoritarian regimes. This is predicated on the assumption that democratic regimes have a better chance to address corrupt and unethical practices. She further contend that if democratic principles such as separation of powers, accountability, and the respect for rule of law are strictly and strongly adhered to, corruption and ethical problems will hardly surface under the system. Empirical evidence from Nigeria's democratic rule of the First Republic (1960-1966) and the Second Republic (1979-1983) has shown that it is not enough to have democratic governance but a functional one as the military regime that struck in 1966 led by Major Chukwuma Kaduna Nzeogwu has demonstrated that:

> The aim of the Revolutionary Council is to establish a strong, united and prosperous nation, free from corruption and internal strife. Our enemies are the political profiteers, the swindlers, the men in high and low places that they remain in office as Ministers or VIPs at least, the tribalists, the nepotists, those that make the country big for nothing before international circles, those that have corrupted our society and put the Nigeria calendar back by their word and deed (Ademoyega,1981:87).

In his comparative study of the two types of regimes in Africa, Medard (2005) has argued that both military and democratic regimes have been found guilty of promoting and abetting corruption on the continent but he concludes that if democracy was more effective, it would have introduced more transparency and better control on corruption in Africa. Medard 's argument can be summed up this way that a well practiced democratic government has a better chance to redress the problem of abuse of office than authoritarian regimes. In her own contribution, Sindzingre (2005) has argued that the type of regimes has little or nothing to do with the fight against corruption or abuse of office or ethical problem. She has argued that there are abundant evidences in Africa and Asia that a transition from a corrupt authoritarian military regime to a democratic government does not make any difference in terms of corrupt practices. The reason she argued are weak democratic institutions and centralized decision-making processes. The argument is very apt when you consider the Nigerian situation under both the military and democratic government in terms of the fight against unethical practices. In the light of the above positions, this study therefore posits that democratic governance possesses some

distinct principles that have the potential to better confront the problem of abuse of office and these principles are: free press, rule of law, transparency and accountability, political competition, votes as a constitutional mechanism for transfer of power. Democratic governance therefore, does not necessarily mean less corruption or abuse of office and power, but they do contain possibilities which can be effectively explored for transparency, accountability and the activities of civil society groups. Even international pressures for good governance resonate more with democratic governance than with military dictatorship. This is because the attributes of democratic governance includes; accountability, transparency in government procedure, expectation of rational decisions, predictability in government behaviour, openness in government transactions. Free flow of information, respect for the rule of law and protection of civil liberties, freedom of the press and decentralization of power structure and decision – making are fundamental to fighting unethical practices.

The most significant influence on the quality of governance in Nigeria has been the incessant military intervention leading to political instability, disregard for the rule of law and lack of respect for fundamental human rights and freedom, as well as lack of accountability and transparency. Out of the over 50 years of Nigeria's existence as an independent sovereign nation, the landscape of Nigeria's governance has been dominated by military rule for almost 32 years. Almost all the seven successful military coups claimed to fight corruption or abuse of office but unfortunately, the military regime instead of dealing with corruption became more corrupt. For instance, Gboyega described Ibrahim Babangida's regime as existing for corruption to thrive and General Sani Abacha who established War Against Indiscipline and Corruption (WAIC) was estimated to have stolen the equivalent of 2-3% of Nigeria's GDP every year he was in power (Costa, 2007). In these circumstances, corruption was allowed to grow and now constitutes one of the major political, social and economic issues in Nigeria.

In the light of the foregoing, it can be observed from the variegated definitions of ethics, accountability and transparency that the nexus among them stands incontrovertible. In conclusion therefore, Johnston (1999) opined that if democratic principles are respected, democracy can better promote ethical behaviour, transparency and accountability than authoritarian regimes. We therefore posit that democracy given its transparency and accountability principles holds a better credential of making a positive impact on the war against abuse of office and ethical problem. The deduction from the above is that the realization and actualization of democratic governance requires that accountability and transparency be properly instituted and effective so as to achieve dividends of democratic governance. In addition, the declaration of the World Bank for social development stated that: Democracy and transparency and accountability of governance administration in all sectors of society are indispensable foundations for the realization of social and people-centred sustainable development (UN,2000:3). We can therefore assert that fundamentally, good governance activities increase participation strengthens accountability mechanisms and open channels of communication among people, institutions and organizations This study can therefore conclude that corruption and abuse of office is a symptom of poor governance. Therefore, fighting the symptom is always less effective than directly addressing the root. The emphasis in designing anti-corruption strategies should be first and foremost on the improvement in governance – here defined in terms of public ethics, accountability and transparency. One of the ways of doing this as observed by Kaminski and Kaminski (2001) is by developing an efficient, accountable system of governance and importance may be particularly attached to the conduct of people in position of power and authority. This is evident in all the successive regimes we have had in Nigeria from independence to date. However, there is need to examine each of the regimes (civilian and military regimes) and efforts made towards promoting public ethics in governance.

2.7 Theoretical Framework

Morgenthau (1950) in his work, Politics Among Nations has observed that a theory must be judged not by some preconceived abstract principle or concept unrelated to reality, but by its purpose; to bring order and meaning to a mass of phenomena which without it would remain disconnected and unintelligible. Our emphasis in this assertion above is bringing meaning to the mass of phenomenon. Furthermore, if we also agree with Haralambos (2004)'s definition of theory as a set of ideas which provides an explanation for a phenomenon, then a theory is expected to provide a guidance, direction and explanation to phenomenon in human society. Hence, structural-functionalism is adopted as the theoretical frame of analysis for this study.

2.7:1 Structural-functionalism

Structural-functionalism as a prism for analyzing social fact dates back to the writings of Aristotle and Montesquieu who gave it a proper shape by propounding the theory of separation of powers. The old theory of functional analysis of the structure of government was based upon the theory of separation of government into three organs, but in modern times, various new factors have brought to bear a number of new factors into it. In its modern forms, functionalism is derived from anthropological and sociological theories of Malinowski and Radcliff-Brown. It was later adopted by Talcott Parsons and Marion Levy and it became a major framework of analysis in sociological discourse. However, functionalism has a long history in sociology and prominent in the work of Auguste Comte and Herbert Spencer who are referred to as the founding fathers of Sociology. It was later developed by Emile Durkhem and refined by Talcott Parsons. During the 1940-1950s, functionalism was the dominant social theory in the American Sociology but gained acceptance in the field of Political science in the 1950s with the work of Gabriel Almond taking a major lead. The

method of structural-functionalism was adopted in political science by some leading American writers who came to realize that while analyzing some political phenomenon, they should be concerned among other things with their functions in the sense of the purposes served by it. Nisbet in Ritzer(2008) has argued that structural – functionalism was without doubt, the single most significant body of theory in social sciences in the 20th Century. In addition, Palombara (1970), commenting on structural-functionalism has observed thus:

> Regardless of what the individual political scientist may want to do(or not do) with functionalism, he must acknowledge that it is from this theory that we learned of conceptualizing the political system as a set of finite, interrelated functions essential to its existence and that the manner in which such functions are performed anywhere in space and time is not necessarily bound to a specific set of institutions…We learned too that it is not merely a formal institution that may represent a structure of the political system but that other analytically interesting and important patterns, such as value systems, economic allocations, attitude towards innovations and so on can also be viewed from a structural- functional vantage point(Palombara in Johari,1982:85).

It is important to note that structural-functionalism as an offshoot of the system analysis, the discourse of the theory is premised on explaining what political structure performs what basic functions in the political system and also serve as a tool for investigating how society can survive from decadence. The structural-functionalism is basically a theory of social survival from decay (moral or ethical) and decadence. Theorists of functionalists ask themselves what is needed for a society to maintain itself and then what institutions or sub-groups within that society are promoting them. To the structural-functionalist scholars, all systems have functions and the main function of any social system is simply to maintain the basic structure. However, it is instructive to note at this point that there are variations of structural-functionalism but this work will focus on the contributions of Talcott Parsons and Robert Merton.

Contemporarily, the name Talcott Parsons is synonymous with functionalism. While Parsons is the most important structural–functional theorists, his student Robert Merton authored some of the most

important statement on structural-functionalism. He argues that structural-functional analysis focuses on groups, organizations, societies and culture. Parsons, as one of the leading thinker of functionalism especially in America believed that behaviour is driven by our efforts to conform to the moral code of society. It is within this context that the codes of conduct for public officers are established in the Code of Conduct Bureau. The purpose of such code is to constrain human behaviour from unethical behaviour so as to promote the common good. In order for the society to survive, institutions such as the Code of Conduct of Bureau and the Code of Conduct Tribunal must function in ways to promote the maintenance order and the society as a whole conform to the moral code.

One of the basic assumptions or premise of this theory is that we can best understand the purpose of any organizations or institutions by examining what it does as it relates to its functions and roles. The foci of attention are therefore the structures and functions. In structural-functionalism, one identifies the important structures and in this case Code of Conduct Bureau and the Code of Conduct Tribunal and then seeks to discover their functions. This is because the political and social systems in structural-functionalism are systemic wholes that influence and are influenced by their environment. The emphasis here is that at the root of every social structure there are aims and principles that are observed by the members of the society which involves the factor of value consensus, which within the purview of our discourse can be referred to as the code of conduct for public officers as specified for the officers to observe in other to promote ethical behaviour n governance. The details of these codes as contained in Part 1 section 5-19 of the Code of Conduct Bureau and Tribunal Act of 1989 and as contained in the Fifth Schedule of the 1999 constitution. The basic units of structural-functionalism analysis are the roles (functions assigned by law to the institutions of the CCB and CCT and not the individuals. However, the interaction that characterizes a political system takes place between the roles these institutions performs. It is within this context that we contend that what government is all about

and what it does can be understood within the context of a set of institutions making and enforcing government policies. These institutions have agreed specific roles in furtherance of the codes that are contingent to the goals of government. Institutions constitute very important part of any state and as such, any decision on the activities of government in any state without reference to the corresponding institutions and their roles will be misleading because institutions have been conceived as offices and agencies arranged in hierarchy and each agency having certain functions and powers. Furthermore, institutions form very important part of any state and as such, any discussion on the activities of government in any state without reference to the corresponding institutions will be misleading especially in developing countries where institution building is the order of the day. In addition, functionalism as a theoretical approach to political inquiry focuses on the institutions, structures and agencies of government.

Merton (1951) in his contribution argued that there are different levels of functional analysis. Functionalism, especially early functionalists had generally restricted themselves to analysis of the society as a whole, but Merton (1951) made it clear that analysis also could be done on an organization, institutions or group basis. Merton (1951) also introduced the idea of latent and manifest functions of the institutions. These two terms have been important to functional analysis. Manifest functions are the intended functions institutions are designed or established to perform while latent functions are the unintended functions. It is within this purview that the manifest or intended functions of the CCB and CCT as provided for in the Act establishing it would be assessed. Some scholars view the problems of governance in Nigeria as being largely institutional (Klitigard, 1997; Ocheje,2001; WB, 1994; Diamond,1987). Diamond (1987) for instance, in his work "Controlling Endemic Corruption in Developing Countries" has observed that what is required to fight unethical practices is overlapping institutions designed to ensure autonomy and effectiveness. It is this institutional view that informed

the establishment of institutions and programmes such as Public Complaints Commission (PCC), Ethical Revolution, War Against Indiscipline (WAI),War Against Indiscipline and Corruption (WAIC), Economic and Financial Crimes Commission(EFCC), Independent Corrupt Practices and other related offences Commission(ICPC), Code of Conduct Bureau and Code of Conduct Tribunal (CCB and CCT) and many more initiatives aimed at combating unethical practices and abuse of office in Nigeria democratic governance that have produced little or no positive result.

In addition, functionalism sees the society as a system; that is, a set of interconnected parts which together form a whole. The basic unit of analysis is the society and its various institutions which are understood primarily in terms of their role relationship to the whole. Thus, social institutions such as the Code of Conduct of Bureau and the Code of Conduct Tribunal are seen and analysed as part of the social system rather than an isolated unit. As such, they are understood with reference to the contribution they make to the system as a whole in the performance of their assigned roles or functions.

Functionalism is also premised on the argument that an understanding of any part of the social system requires an analysis of its roles in relationship to other parts and most importantly to the contribution to the maintenance of the system. They also argue that just as an organization has certain needs which must be met or satisfied if it is to survive, so also society and its institutions have basic needs which must be met if they are to survive and be effective. These basic needs are referred to as functional requirements and prerequisites. Within the context of this study, the institutions under investigation CCB and CCT, if they must survive and be effective in the performance of their functions needs some institutional frameworks and arrangements if they must survive and function well. In a nutshell, structural-functionalism takes the society as a single interconnected system with each element performing a specific function. It thus seeks to understand the behavioural pattern and socio-cultural

factor of institutions in terms of the role it plays in keeping a given system in proper workings thus maintain a stable system.

In addition, structural-functionalism also assumes that if society is a system as a whole, it has its parts that are interrelated. As the name suggests, it revolves around two key concepts: structures and functions. The structures here refer to the arrangement and framework such as the Code of Conduct Bureau and Code of Conduct Tribunal established to perform the role of promoting public ethics n governance in Nigeria. Under the functions, three basic interrelated questions are posed for better understanding. These are: what basic functions are discharged in any given system (it focuses on the objectives or results and the purpose for which the CCB and CCT are constitutionally established to perform); by what instruments (institutions) are those functions performed; and under what conditions the performance of these functions is done.

In terms of relevance of the theory to the problem under study, the concept of functions, according to the functional theory refers to the contribution of the part to the whole. More specifically, the functions of any part say the CCB and CCT of the society is the contribution they make to meet the functional prerequisites of the social system. It therefore sets out to search for the particular structures that perform requisite functions.

The relevance of functionalism can also be situated within the context of its focus on the question of how social system are maintained. This focus has helped in a positive evaluation of the parts of society. Their emphasis on function had resulted in many institutions being seen as beneficial and useful to the society. In addition, Parsons' contribution helps us to understand how social order can be attained. He begins his analysis with the question of how social order is possible. He observes that society is characterized by mutual advantages and peaceful co-operation rather than mutual hostility

and destruction. His view of the social system having four basic functional requirements or prerequisites helps us to understand how to maintain order. Even though he outlined four prerequisites, within the purview of this study, we are concerned with the second requirements which talk about goal attainment. Here, government must not only set goals but allocate resources required to actualize these goals. It is within that context that the CCB and CCT were established to perform certain goal of promoting ethical behaviour in public service but whether corresponding adequate resources in terms of funding, legal backing, adequate staffing (in terms of numbers and quality) which constitutes the functional prerequisites are allocated to them for the effective performance of their functions remains an issue of empirical verification. Finally, structural-functionalism is distinguishable from other theories as it describes social reality largely in terms of structures, processes, mechanisms and functions

Functionalism has been subjected to a lot of criticisms ranging from over optimism, methodological, historical and explanatory weaknesses criticisms. Functionalism has been criticized to be too narrow as it ignores the roles of individuals who constitute and operate the system. However, its strength is located in the study of different aspects of the social system and roles assigned to each institutions of the state which, when performed, will guarantee social order and stability. Despite these criticisms, functionalism is on a stronger logical ground when it argues that the continued existence of an institution may be explained in terms of its effects. Hence, it is assumed that once an institution has originated, it continues to exist if it has on a balance, beneficial effects on the system. Furthermore, functionalists such as Parsons see solution to social order in terms of value consensus. The fact that it attempt to relate the part of society to the whole and relate one part to another and explained it within the dynamics of roles performance constitutes its major strength and the need to be relevant at all times. In conclusion, even though functionalism approach is inadequate in itself because of its total pre-occupation with the institution, roles and its neglect of the individuals involved in these institutions

and the socioeconomic environment within which these institutions functions, any other approach will be inadequate without paying due attention to institutions because anti-corruption crusades for instance are driven by institutions. Finally, it has been argued that political and institutional frame works are vital to achieving sustainable development. Agbakoba (2007) has noted that moral appeal does not win anti-corruption war; it is only legal institutions that can make the process succeed. It is within this purview that some scholars view the problems of governance in Nigeria as being largely institutional (Klitigard, 1997; Ocheje,2001; WB, 1994; Diamond,1987). Diamond (1987) for instance, in his work "Controlling Endemic Corruption in Developing Countries" has observed that what is required to fight unethical practices is overlapping institutions designed to ensure autonomy and effectiveness. It is this institutional view that informed the establishment of institutions and programmes such as Public Complaints Commission (PCC), Ethical Revolution, War Against Indiscipline (WAI),War Against Indiscipline and Corruption (WAIC), Economic and Financial Crimes Commission(EFCC), Independent Corrupt Practices and other related offences Commission(ICPC), Code of Conduct Bureau and Code of Conduct Tribunal (CCB and CCT) which constitute our focus in this as institutions and aimed at combating unethical practices and abuse of office and promote ethical behaviour in Nigeria democratic governance from 1999-2007.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Location of the Study Area and Justification

The study is primarily aimed at assessing the role performance of the Code of Conduct Bureau and Code of Conduct Tribunal (CCB and CCT) in promoting public ethics in democratic governance in Nigeria. The study was located at the Federal Capital Territory (FCT) Abuja. The justification or rationale for choosing FCT is predicated on the fact that it is the national headquarters of the CCB and CCT. In addition, based on a prior findings from pilot investigation, State and Zonal offices of the CCB issue and receive completed Asset Declaration Forms (ADFs), and collate details of public officers and forward them to the national headquarters for processing. The CCT on the other has only one mobile Tribunal based at Abuja but visits zones and states to dispense judgment as occasion demands. With these therefore, it becomes imperative to locate the study at the FCT Abuja.

3.2 Types and Sources of Data

The study relied on a combination of primary and secondary sources of data. The primary source for this study consist of the use of direct observation and In-Depth Interviews (IDIs) from principal officers of the CCB and CCT and other notable Civil Society Groups (See Appendix for details).The rationale for the choice of these category of officials and organizations was predicated on the nature of what they do and their vast knowledge on ethical and corrupt related issues in Nigeria, especially as it relates to the existence and activities of the CCB and CCT. It is also instructive to note that while the interview from principal officers of the CCB and CCT focused on the appraisal of their activities vis-a-vis their statutory functions and the probable factors militating against their performance, the Civil Society Groups focused on the evaluation and assessment of the performance of the CCB and CCT and the

level of collaboration between the CCB and CCT and other similar agencies in the quest to tackle unethical practices in public offices. The secondary sources included the elicitation of data from documentary records and reports of the CCB and CCT and other related materials as it relates to the activities and performance of the CCB and CCT. The rationale for the choice of the two sources was for the purpose of one complementing the other so as to strengthen the findings of the study.

3.3 Interview Guide:

This study employed the use of qualitative data based on the quality of information and not necessarily mass data. As such, a structured In-Depth Interview (IDI) guide was designed in order to obtain qualitative information from the CCB and CCT officials and some other specialized groups on issues relating to the performance of the Bureau and Tribunal and or challenges being faced by the Bureau and Tribunal in discharging their responsibilities. As such, principal officers of the Bureau such as the Secretary, Director of Research and Education, Deputy Director of the Asset Declaration Department, State Director and Assistant State Director/Coordinator of the CCB were interviewed. On the part of the CCT, a Director, Registrar and Assistant Registrar of the CCT were assessed (See Appendix 1 for details). Other specialized group and National Assembly Committee Chairmen on Public Ethics who were also designed to be interviewed were not accessible. The rationale for the choice of these categories of specialized agencies and officials is predicated on the fact that the nature of the study requires that data should be generated from relatively informed individuals who are not only conversant with the activities of the Bureau but who could provide useful information on the subject under study. More-so, the study wants to ascertain the degree of collaboration between the Bureau and these agencies; Head of Transparency International (TI), the head, Ethics Partnerships and Economic Enterprises, Abuja, and chairmen of EFCC, ICPC and NEITI. However, these other specialized agencies and National Assembly Committee Chairmen on Public Ethics were not accessible after

several frantic efforts. In spite of this challenge, the researcher attempted to make do with information at his disposal in order to make a valid analysis.

3.4 Examination of Official Records: This entails a review of available documents/official record of the CCB and CCT on what they have done so far in promoting public ethics in the eight years of President Obasanjo's administration (1999-2007). The document examined include the following: i. Code of Conduct Frequently Asked Questions; ii.Code of Conduct Bureau 20th Anniversary and 2009 Press Briefing; iii. Nigeria @ 50 and the Code of Conduct Bureau; iv. Public Officers Handbook. Code of Conduct Bureau 2010; v. .Code of Conduct Bureau and Tribunal Act; vi. The Code of Conduct Annual Reports for 2005;2006;2007 and vii. Report from the Secretary, Code of Conduct Bureau on: "The State of the Code of Conduct Bureau and the way forward 2011". All these together helped to strengthen the findings of the research. The official record made available to the researcher was used as indicated in our analysis.

3.5 Population Sampling and Sampling Techniques

The population sample of this research constitutes fifteen key informants from the Code of Conduct Bureau and Code of Conduct Tribunal and other specialized groups. Out of this 15, seven (7) principal officers of the CCB and CCT were identified and interviewed; and eight (8) knowledgeable adult Nigerians from the CSOs who lives within the country and are familiar with the issues under investigation. The issues of ethical and unethical practices in public offices are issues that its data can best be meaningfully generated from relatively informed persons. The nature of this study required that data should be generated from relatively informed individuals who are most likely conversant with the existence and activities of the CCB and CCT and as such, could be willing to provide the needed information on the subject matter.

However, in the selection of the organizations whose officials were picked for the In-depth interview, the researcher identified and listed some Civil Society Organizations (CSOs) on a piece of paper, squeezed in a bowl for selection. Consequently, ten (10) were selected using Simple Random Sampling technique out of which eight (8) were actually accessed. The rationale for this technique was to give each and every one of them equal chances of being selected (See Appendix 1 for details)

3.6 Data Transcription and Analysis Technique (DTAT).

The essence of the DTAT is to transcribe the raw data generated into an instrument for analysis. For the IDI, it is instructive to note that before interviews were conducted, the interviewees were contacted and informed about the research with the detailed overview. Meetings were scheduled by prior notice of the interviewees and each interview lasted between 40 to 1 hour depending on the individuals and response to the issue under investigation. Responses from the interviewees were tape-recorded in some cases on the permission of the respondents which were later transcribed into notes.

The transcription process began with a careful reading of the transcribed notes in order to gain overall familiarity with the data from the interviews. The second reading was conducted in order to identify the salient themes in the data in line with research problem under investigation and research objectives. The last reading was to establish emerging themes and to place relevant quotes within the different identified themes.

A triangulation method was adopted for the analysis of the data generated. This was informed by the nature of the phenomenon under investigation in which documentary surveys and interviews were used. These methods were adopted so that one would complement the other and ultimately strengthens the research findings. In a nutshell, the data generated from the In-Depth Interview were analysed using triangulation method with all the relevant issues such as research problem, research questions and

research objectives were listed in form of themes and sub-themes. Inferences were later drawn from the documentary records and interviews to explain these issues under investigation for the purpose of validity and reliability.

3.7 Problem encountered

Inaccessibility of some key informants especially House and Senate committee Chairmen on Public Ethics and principal officers of the EFCC and the ICPC was one of the problems encountered. It was the intention of the researcher to interview principal officers of these anti-corruption agencies to enable them bare their minds on the assessment of the CCB and the CCT's levels of collaboration and the likely challenges militating the effective performance of these institutions. All efforts made to secure their audience failed. However, the data generated from the principal officers of the CCB and the CCT and the other specialized agencies helped us to draw inferences on the assessment of the performance of the Code of Conduct Bureau and Code of Conduct Tribunal.

CHAPTER FOUR

OVERVIEW OF PREVIOUS ATTEMPTS AT PROMOTING PUBLIC ETHICS IN NIGERIA.

4.1 General Aguiyi Ironsi Regime

Unethical practices are not a new phenomenon. It has existed as Kontor (cited in Leo, 2000) has observed as long as there have been people in power and money to influence them. As an age old phenomenon, it has enjoyed increasing attention of academic, policy oriented studies and a focus of nquiry, not only because it involves the abuse of public office for private gain but also because it is intrinsically and directly linked to other forms of lawlessness and misrule. Its incidence and prevalence are matter of public concern given the damaging public and social consequences**.** More so, it is now generally agreed among scholars and leaders of government, business and institutions that unethical and corrupt practices whether incidental, systematic or systemic, and whether endemic or planned, has often been found to have profound damaging political, social and economic effects with varied consequences such as the failure of so many development project (UNDP, 2004; World Bank, 2005).

There are abundant evidence that individual national government, regional and international governmental bodies and non-governmental agencies are concerned about corruption and unethical practices and their attendant negative consequences. As such adopts action programmes towards combating it. According to Leo (2000), based on the growing consensus that corruption and unethical practices can be confronted, curbed and even contained, several organizations such as Organization for Economic Cooperation and Development (OECD), Organization of American States (OSA), European Union (EU), World Trade Organization (WTO), World Bank (WB) have all began to enact legislation to curb and control corruption. Africa is not left out in the consensus and fight against corruption and unethical practices as is reflected in AU, NEPAD and other Regional and Continental organizations.

In Nigeria, generally, there clearly exists a consensus among Nigerians including the perpetrators and victims of this menace that corruption and unethical behaviour is bad and must be fought and eradicated. This is manifested in the programmes of successive Nigerian governments especially after independence to combat this menace. Based on the numerous and enormous socio-political and economic problems precipitated by unethical and corrupt practices, post independent Nigerian governments especially after Alhaji, Sir Abubakar Tafawa Balewa administration had attempted to fight the menace which is replete with instituting one programme, structure, commissions and a lot of legislation ranging from military decrees to acts empowering institutions to prosecute war against this menace. This chapter attempts to explore the various efforts made by Nigerian governments since independence aimed at stemming the tide of unethical practices in Nigeria and to assess the extent to which the institutions and agencies established have addressed the problem they have been designed to confront and to also investigate why the phenomenon has prevailed despite the existence of these institutions .

The contemporary preference and respect for democratic governance globally as the most acceptable form of government is premised on the following but not restricted to these features: Respect for the rule of law, openness and transparency, checks and balances, accountability, separation of powers, and entrenchment of independent democratic institutions. These features, as Ikubaje (2006) has observed, can effectively guarantee accountability and transparency in government if they are well implemented and allowed to function.

Nigeria gained her independence on October 1, 1960 in a parliamentary democracy with Alhaji Sir Tafawa Balewa as the prime minister. This marked the beginning of the first republic which lasted for only six (6) years before Nzeogwu led military coup brought General Aguiyi Ironsi into government. In the first republic, corruption, abuse of office and unethical practices were less

significant issues partly because as at the time of independence in 1960, the Nigerian Public Service was noted for its high ethical and technical standard, impartiality, anonymity, selflessness and dedication. The civil service, as of 1960 as Dunmoye (2001) has noted is one of the few good legacies left by the British colonizers. However, cases of unethical practices were less pronounced because as the major source of corruption prior to emergence of oil exportation in the 1970s was perpetrated mainly by the state tax collection officers from farmers, exporters and traders of cash crops. Ikubaje (2006) noted that corrupt practices were fewer and difficult to penetrate because there were different associations in place throughout the country to prevent such practices. That does not mean cases of corrupt practices were not in existence. Giving credence to structural-functional theory's postulations of establishing an institution with an assigned function, in 1963, for instance, a Commission headed by Justice Coker was constituted by the Federal Government to investigate Chief Obafemi Awolowo, an opposition leader who was accused of appropriating public resources for personal use. Furthermore, Ebeh (1994) has argued that during the first republic, corruption was rampant at all levels of government but most serious is the Cocoa rich Western Region, where investigations found that the activities of small clique of ruling party politicians and business men had drained the region's marketing board of more than 10 million naira. Throughout that period, he added, government contracts purchase and loan programmes were systematically manipulated to enrich political officials and the politically well connected.

As early as 1964, Late Dr. Nnamdi Azikwe in one of his broadcast to the nation told Nigerians that:

> Tribalism, nepotism, perfidy and corruption were the enemies of Nigeria. That with tribalism on the ascendance, the personality of our nation decomposes and stinks. With nepotism, influencing the politicians' judgment the will of the nation becomes stifled and immolated. With Perfidy as the vogue among some of our politicians the morals of the nation vanish to zero as no faith can be placed on the words of a crooked, double faced,

> double-tongued scourge of the human race. With bribery and corruption permeating their way of life, he concludes, the prestige of our nation dwindles to the vanishing point, defacing our national image, and bringing shame and contumely to those who wear the agbada of Nigerian citizenship (Azikwe in Ikoiwak, 1986:83).

On the prevalence of corruption and unethical practices in Nigeria as far back as in 1964, a political party, specifically UPGA, made an observation on the state of the Nigerian nation that:

> There was systematic frustration of the lofty aspirations of the masses…. Money and material wealth has once become the supreme value in our society and the goal of all social actions. This has given rise to corruption, selfishness, malingering and a general lack of patriotism and social responsibility …. (UPGA in Ikoiwak,1986).

In the following year, which was in 1965, there was a media report of a minister's conduct in connection with a land transaction which demanded the removal of the said minister, who was said to be a pillar in the same party. In defence of the minister, the governing council of the party passed a unanimous vote of confidence on the minister. The national legal adviser of the party issued the following statement:

> To say that financial transactions in land and landed property by many leading citizens of Nigeria have not become a gainful pastime is to start deceiving ourselves. All top Nigerians ministers, parliamentarians to civil servants, journalists hold positions of trust in one form or the other they all indulge in these transactions. When it suits our purpose we quote conventions surrounding the British parliamentary system. When it again suits our purpose, we close our eyes to certain practices all in the Nigerian way of life. Our journalists must make up their minds which system they are going to uphold in Nigeria. The British parliamentary convention or the Nigerian way of life as it exists today, where everybody regards it fair to make money (The UPGA National Legal Adviser cited in Ikoiwak, 1986: 84).

The two preceding statements are clear indications that political office holders of the first republic who had almost the power of life and death demonstrated unbridled proclivities towards unethical practices. Public offices which were supposed to be sought for on trust for public interest are used for selfish interest and as Onimode (2001) has rightly observed, the classical capitalist work ethics - the dignity of labour is replaced by a debased and permissive get-rich- quick mentality. In 1964,

public disgust with the abuse of office and unethical practices featured prominently and consequently contributed to the crisis that characterized the Nigerian state before the military struck in 1966 which brought to an and the collapse of the first republic.

The history of the fight against unethical practices in Nigeria has shown that it started from the pre-independence period with the enactment of Criminal and Penal Codes of 1916 against public sector corruption. This continued until independence in 1960. In terms of the fight against unethical practices during the first republic- that is- before the military coup of 1966, the Tafawa Balewa government, even though it has been argued by scholars that institutional frameworks are not only necessary but a required approach for a state's punitive and preventive mechanism for successful combat of unethical practices, it never initiated any. After independence, especially during the first republic, the Tafawa Balewa government did not make any anti corruption laws. The criminal code inherited from the colonial period was in operation in the first decade of independence which provided for the prosecution of corrupt officials. But there was low level of prosecution throughout the first decades, probably due to low level of corruption. However, the first republic depended largely on the institutions of judiciary and the police to prosecute corrupt Nigerians through the colonial enacted anti graft laws as encapsulated in the Criminal Code.

In his celebrated speech that brought to an end the first Republic and heralded the first military regime led by major Nzeogwu, the war against corruption was a core aspect of their rason d'etre. In his broadcast, he proclaimed among other things that:

> The aim of the revolutionary council is to establish a strong, united and prosperous nation, free from corruption and internal strife … Our enemies are the political profiteers, the swindlers, the men in high and how places that seek bribes and demand ten percent; those that seek to keep the country divided permanently so that they remain in office as ministers or VIPs at least, the tribalists, the nepotists, those that make the country big for nothing before international circles; those that

> have corrupted our society and put the Nigerian calendar back by their words and deeds (Nzeogwu in Ademoyega,1981:87-89).

The Ironsi military regime commenced its intention to institute actions to tackle corruption and unethical practices in his nationwide broadcast of January 28 1966. In his speech, he declared that:

> The federal military government will stamp out corruption and dishonesty in our political life…He also added that his government will restore the laid down procedure for tenders and award of contracts so as to eradicate corrupt practices and ensure benefits from the expenditure of the tax payers money (Ironsi, in Agoda, 1993:13).

Before the Ironsi regime could settle down to do anything, it was overthrown by the General Yakubu Gowon. Part of the reason why the Ironsi regime could not last was because the coup raised a lot of suspicion as to the genuine intention and claim for a social revolution as most of the victims of the coup were from one part of the country and the leader and the immediate beneficiaries of the coup were from another part of the country. More-so, if Ademoyega(1981:90)'s assertion that "everybody everywhere in the federation rejoiced at the overthrow of the Balewa government and toasted the revolutionaries" why would a counter coup be staged from the same Army constituency considering the ' genuinty and popularity' of the agenda they claimed they stood for. As such, it could not mobilize enough confidence and support to socially transform the Nigerian state". However, in spite of its failure, it set the agenda for military rule in Nigeria as a 'corrective' form of governance committed against corruption and indiscipline and in favour of restoration of democracy and justice. This agenda set by Nzeogwu in his broadcast on Radio Kaduna on 16 January 1966 has been opportunistically and fraudulently adopted by all subsequent military regimes, including the Aguiyi-Ironsi government of January to July 1966 and even the Abacha government.

In the light of the foregoing, it can be observed that based on the available evidence, the first republic did not initiate any spectacular institution and structural measures to prevent and combat

unethical practices and abuse of office apart from the normal rhetoric and regular democratic institutions such as the judiciary, police, etc which were either too young to function or too weak to perform and most fundamentally, the absence of what structural-functional theorists describe as functional prerequisites to function effectively.

However, Musa (2006) has observed that if sincerely pursued and sustained, fighting corruption through institutional policy and legislation will guarantee a permanent solution. The United States today, according to most studies, is among the least corrupt nations in the world. But America's past was noted with political scandals and widespread corruption. America's reputation as the least corrupt nation is a recent development. This is because conventional histories of the 19th century America has demonstrated its corrupt elements as similar to those found in the modern developing economies like Nigeria. For instance Caro (in Musa, 2006) has observed that as late as the 1950s, cash filled paper bags (just like the Nigerian version of Ghana Must Go or Brown Envelope) floated in the hallowed halls of the US Senate. More so, record has it that Harry S. Truman made it into the Senate as an agent of the notoriously corrupt Prendergast Machine. Musa (2006) also remarked that some of the greatest US. Higher educational institutions were funded by individuals infamous for their roles in extracting public resources through allegedly corrupt political influence.

The import of the above examples is to make us understand that if the U.S. was once more corrupt than it is today, then America's history should offer lessons about how to reduce corruption. It is within this purview that successful Nigerian governments have embarked on one programme or the other aimed at combating corruption and unethical practices.

4.2 General Yakubu Gowon Regime 1966-1975

At the root of Nigeria's political and economic underdevelopment, it has been argued by several scholars is pervasive corruption in public life. For example, one of the core reason for the first military incursion into the Nigerian political landscape is to stage a war against corruption. Since then, as Onoge (1986:21) has rightly observed that, "this voluntary crusade against corruption had become a staple item in the social curricula of successive corrective dictatorships in contemporary Africa". Furthermore, when General Yakubu Gowon took over government in July 1966 coup, he also reiterated the need to combat corruption in public service aside his nine point agenda which would culminate into the handing over to civilian government in 1976. To demonstrate his resolve to stem the tide of unethical practices and abuse of office, the public officers' investigation Asset Decree No. 5 of 1966 was promulgated. The decree was designed to track down public officer who may have earned or illegally acquired wealth or personal fortune by virtue of their vantage position. Public affairs according to this decree refers to any member of the Supreme Military Council(SMC), National Council of State(NCS), the Federal Executive Council (FMC)l; the Military Governor of the state, and Commissioner in the government of the federation or of a state; and of the Nigerian Army, the Nigerian Navy, the Nigerian Air Force or the Nigerian Police Force, any person also holds any office in the public service of the federation or of a state within the meaning of the Constitution of the federation or of a state, the service of a body whether corporate or incorporate established under a federal or state law; or a company in which any of the government in the federation has controlling interest. The Decree may be cited as the Public Officers Protection Against False Accusation Decree 1976 and shall, notwithstanding anything to the contrary in any enactment or rule of law, be deemed to have come into operation on 29th July 1975. The Decree provides that:

1. Any person who publishes or reproduces any form, whether written or otherwise, any statement, rumour or report alleging or intended to be understood as alleging that a public officer has in any manner been engaged in corrupt practices or has in any manner corruptly enriched himself or any other person, being a statement, rumour or report which is false in any material particular, shall be guilty of an offence under this Decree and liable on conviction to be sentenced to imprisonment for a term not exceeding two years without the option of fine.

2. In any prosecution for an offence under this Decree the burden of proving that the statement, rumour or report which is the subject matter of the charge is true in every material particular shall be notwithstanding anything to the contrary in any enactment or rule of law, lie on the person charged.

3. Nothing in this decree shall be construed as affecting the right of any person to institute civil proceedings against any person in a court of competent jurisdiction in respect of the publication of any statement, rumour or report which is the subject matter of proceeding under this Decree" (FRN, 1977 in Odekunle 1986:39)

The import of the above is that the Public Officers Protection Against False Accusation Decree put into question the sincerity and the genuineness of the said regime in the fight against corruption, unethical practices and abuse of office. Hence, it becomes difficult, if not impossible to accuse a public officer of corrupt practices without the accuser standing the risk of facing prosecution and ultimately imprisonment. No wonder Ake (1981) has observed that laws are not independent on their own but reflection of the interest of the ruling and governing class. This also buttressed Engels and Marx (1975)'s position of the state as serving the interest of the ruling class.

It can be concluded that even though the regime within the purview of this Decree probed some public officers and those found guilty were duly punished either through dismissal from office, compulsory retirement or other punishment as specified by the Decree, there were also obvious cases of corrupt misconduct as was manifested in the inability of the regime to manage the oil windfall (oil boom) which consequently resulted in the overthrow of the regime.

Furthermore, the failure of the regime to fight corruption was apparent partly because the military lacked the traditional mechanism and democratic principles as present in a democratic

institution for controlling and monitoring social activities. This illustrates the assertion that if democratic principles such as separation of power, accountability, transparency and the respect for rule of law and viable press and media and functional Civil Society Organizations are allowed to function strictly and strongly adhered to, unethical practices will either hardly surface or be drastically reduced. But having evolved as an undemocratic, autocratic and patrimonial entity, and the state being the major instrument of primitive accumulation and the channel to execute the un- questionable will of the unaccountable authoritarian ruling class, it becomes an ideal breeding ground for unethical behaviour and practices to prevail.

The fight against unethical practices appears to have been successfully evaded and out rightly compromised in most cases. This is because of the various interests groups that apparently benefits from the existing status quo and therefore, question the ethical foundation that attempt to manage corruption. General Gowon's regime, instead of confronting the problem pragmatically, was involved in moralistic speeches and campaigns such as the invocation of the curse of posterity against all the corrupt elements in his regime. It is against this background that the promulgated Decree and the resolve to combat these unethical practices by the regime and the corresponding rise in the unethical practices informed among other things the 1975 coup thereby terminating the General Yakubu Gowon regime.

4.3 Murtala/Obasanjo Regime July1975-February 13, 1976

As it is common with all military regimes in Nigeria, General Murtala did not only acknowledge the prevalence of unethical practices and the dangerous effects it posed on the country but indicated interest to combat the menace. In his maiden broadcast to the nation he said:

Fellow Nigerians

> Events of the past few years have indicated that despite our great human and material resources, the government has not been able to fulfill the legitimate expectations of our people, Nigeria has been left to drift. This situation, if not arrested, would inevitably have resulted into chaos and even bloodshed.
>
> In the endeavour to build Nigeria a strong, united and a focused nation, Nigerians have shed much blood. The thought of further bloodshed for whatever reasons, must, I am sure be revolving to our people. Armed Forces, having examined the situation came to the conclusion that certain changes were inevitable …Fellow Nigerians, the task ahead of us calls for sacrifice and self discipline at all levels of our society. This government will not tolerate indiscipline. This government will not condone abuse of office" (Murtala Muhammed in Musa, 2006:131).

In order to demonstrate his sincerity of purpose, he started by surrendering his ill-gotten wealth back to the nation and later commenced the processes of probing assets of public officers. To further match words with action, he established an Asset Investigation Panel which examined the assets of all the former military governors, the former administration of East Central State and some former Federal Commissioners. The details of the investigation indicated that:

> They had betrayed the trust and confidence reposed in them by the nation. Those of them who were in uniform betrayed the ethic of their profession. They should be ashamed of themselves. They are therefore all dismissed with ignominy and with immediate effect. This order does not affect the two ex-military governors whose investigation did not reveal malpractices and abuse of office. Where the public officers have not been able to explain satisfactorily their earnings and assets these has been confiscated.
>
> The total value of assets confiscated is over 10 million Naira in addition, the ministry of Justice and the police will take into criminal aspects of their corrupt activities with a view of taking necessary legal action if need be.
>
> In disposing of the findings of the assets investigation panel, our main concern has been to lay down guidelines and new standard for the conduct of public officers in this country, we are not trying to victimize anybody and each officer was given the opportunity to explain to the panel of professionals and experts, the way and manners he acquired his assets.
>
> We have also taken note that being Nigerians they were entitled to all facilities that were available to Nigerians in the ordinary course of business, subject of course, to the ethics of the offices they held. I believe justice has been done (Murtala Muhammad, in Musa, 2006:134).

On the completion of the investigation of the panel and as a measure of punishment, all the properties acquired with the ill-gotten wealth were seized and the indicted officers and officials dismissed. Of these, "52 officials in the Federal Public service were retired; 50 sacked; nearly 2000 persons lost their jobs in various parts of the country and banning of alien Unions and Anti-corruption Decree promulgated" (Musa, 2006:134). However, instead of instituting an enduring structure, Agoda (1993) has observed that the regime opted for an adhoc arrangement leading to the mass purge of the public service. Agoda (1993) further added that in spite of the regime claims of fighting unethical behaviours and practices, the era of military saw a new height of patronage and privilege by the hatch men to sycophants and surrogates of the military leaders. The Murtala regime also initiated the 1979 constitution which made provision for a Code of Conduct for public officer and a Code of Conduct Tribunal. Despite all these efforts, corruption and unethical practices continued unabated in spite of the enactment and promulgation of various decrees.

The main reason why the Murtala/Obasanjo regime failed to realize their dreams of getting rid of corruption and unethical practices in Nigeria is because the fight was more of a mere declaration and proclamation without engaging the citizenry in the fight. It was based on this that the Durban commitment on effective Action Against Corruption (1999) resolved that no government can hope to tackle corruption effectively without the support and involvement of the its citizens. Another thing worthy of mention is the lack of continuity and sustainability of policies and programmes aimed at combating the menace. If for instance, General Obasanjo had continued and sustained with vigor and life and made the fight a priority, with purposive leadership as well as economic reform aimed at restructuring and empowering the populace, enforcement of rules, transparency and accountability, a lot would have been achieved. Instead the succeeding head of state, General Obasanjo was more interested in the handing over of government to civilian in 1979. However, as Asobie (2001) has noted, the

regime made some strides in the crusade against corruption, but the inability to maintain the tempo largely accounted for the crumbling of the crusade. With unethical practices and behaviour still largely a monument problem, Obasanjo handed over power to civilian rule in 1979.

In conclusion, the general Murtala/Obasanjo regime which ousted the General Yakubu Gowon regime in 1975, allegedly purged itself, returned stolen public funds and set to force others to account for their own past. Finally, the Murtala/Obasanjo just like their predecessors identified corruption as a very dangerous problem and tried to fight it. But instead of instituting and enduring structure Agoda, (1993) has observed that the regime opted for an adhoc arrangement leading to the mass purge of the public service. He further added that in spite of the regime's claim of fighting unethical practices in the era of military seems a new height of patronage and privilege by the hatch men and surrogates of the military leader.

On the prevailing prevalence of unethical and corrupt practices despite several promulgation and declaration, Abdullahi Smith (1976) lamented that

> Nigeria, far from being the country which so many of us would have it to be, is a country where human society is plunging compulsively into greater depths of corruption and moral decay. The more we devise complex and ambitious plans for the socio-economic and political development of this country the more their implementation is frustrated by the evolution of ever more sophisticated methods of corruption so that in the end the only development we see is the development of corruption.

General Obasanjo who succeeded his master, instead of continuing in the footstep of his master, decided to have an idealistic approach which was reflected in his popular Jaji Declaration of 1977. The central thrust of his declaration is predicated on the assumption that once you get everybody to drop his materialistic and greedy ideas and adopt a new conception of fairness, justice and the public good, the society will automatically be cleansed of corruption. Since according to him, the social and moral values of a society determine what is right or wrong. It follows from this assumption that corruption

can be reduced or eliminated if such values are changed. As plausible as his argument may look like, he failed to understand that materialism and greed are core elements of capitalist system that cannot be eradicated by mere recourse to justice, fairness and public good. Furthermore, Obasanjo in his 1977 Jaji declaration condemned the gross indiscipline, corruption and moral decay in Nigeria and advocated a disciplined, fair, just and human African society. He concluded that the contemporary debate about whether Nigeria should go capitalist or socialist is both wasteful and diversionary. What Nigeria needs, he recounts is not foreign ideology but an indigenous ideology based on the social values and moral precepts of our traditional society.

Finally, in order to ascertain the genuineness of the regime's commitment to fighting unethical and corrupt practices, in 1975, when the decree No. 38 now repealed was enacted, the defunct Corrupt Practices Investigation Bureau was set up with tremendous powers to investigate cases of corruption. However section 19 of the corrupt practice decree made it mandatory on the then head of the Federal Military Government to establish tribunal for the trials of offences under the Decree, but no such tribunals were established before power was handed over to a civilian government under the leadership of Alhaji Aliyu Shehu Shagari. This therefore is a clear indication that he did not demonstrate any will and commitment to fighting unethical practices.

4.4 Alhaji Shehu Aliyu Shagari's Administration (1979-1983)

The 1979 Constitution as packaged by the Murtala/Obasanjo regime ushered in the first executive President of a presidential democracy with Alhaji Shehu Shagari the President. Alhaji Shehu Shagari was among the public servant that was declared innocent by the investigation panel set up by the Murtala/Obasanjo regime.

The 1979 Constitution embodied in the Fifth Schedule the provision of the code of conduct for public office and the Code of Conduct Bureau and Tribunal. Under the civilian administration, the Bureau could not become operational due to the inability of the then National Assembly to pass the enabling Bill into law until the collapse of the second republic in December 1983.

President Shagari conceived unethical and corrupt behaviour as a moral dilemma as declared by him thus:

> But I was not oblivious of the cruel moral dilemma that is part of the grim realities of politics in Nigeria as elsewhere. Let us remember that our party chiefs were hostages to perversity, were ultimately concerned with the public good. It is either they carve in and allow the government to be paralysed or put our new democracy in jeopardy. It is when one survive one can fight another day (Shagari, 1999:268).

The import of this statement is that he conceived unethical and corrupt practices in Nigeria within the purview of morality and as such neglected the enforcement of the constitutional provision and went for a non-legal measure, hence, launched a programme tagged the Ethical Revolution as an antidote against unethical practices and moral decadence.

The main focus of the ethical revolution was to re-orientate, re-educate and mobilize public support through awareness and enlightenment campaign on the dangers of corruption and its debilitating consequences on the social economic and political development of the people and the nation at large. President Shagari's ethical revolution as Nkom (1986) has noted is a continuation of the idealistic campaign against corruption which is not only devoid of any practical solution to the problem but is also based on a mystified notion about the nature and cause of corruption in our society.

However, many unethical practices from both the elected and unelected members of the party ultimately affected the vision and mission of the government to deliver the party manifestos to the electorate. For instance, at National Assembly as well as across State Assemblies greed continued to

dominate legislative life, unethical practices became so obvious that the Senate repeatedly decried the lack of transparency and accountability in National Assembly affair. As observed in his work "Beckon to Serve", the President as a civilian regime which took over from prolonged military rule, it was a different institution entirely. They were some personal frustrations from the person of president especially with some unethical behaviours of the legislative arm of government coupled with many other intra party squabbles within the ruling (NPN) party.

In spite of all the effort, the Second Republic politician took corruption and unethical practices to a much higher level compared to what happened in the First Republic and under the military regime. It was during the Second Republic that contractors were paid for jobs without being executed. In most cases as Musa (2006) rightly observes payment was made for many non-existence contracts and in the process, the culture of accountability and transparency was slaughtered by the politicians. Quest for personal gains took precedence over selflessness and service to the people. Stealing directly from the treasury started in the second republic. Unethical political practices further compounded the situation for the nation in general (Musa, 2006). Indeed, the platform for corruption was solidified by the political class irrespective of their party affiliations.

Furthermore, even though the Shagari government was able to identify unethical practices as an endemic national problem, he was too weak to confront and fight it. His failure was so apparent that given the multifaceted nature and dimension of corruption he was so naïve to take a monolithic approach to it without regard for effective preventive measures and the enforcement of the 1979 constitution and due process aimed at enhancing good governance, and a comprehensive reform to strengthen the economy. Besides, his failure to take into cognizance the constitutional provision of the Code of Conduct Bureau and Tribunal seriously created a fundamental lapse in the fight against corrupt and unethical practices in Nigeria. As the report of the Political Bureau has noted, the vacillation and

reluctance on the part of both the president and the National Assembly to activate the fifth schedule, part 1, of the 1979 Constitution was a deliberate design to enable them loot the treasury and recoup their election expenses (Political Bureau, 1987:218).

In the light of the foregoing, this study can conclude that just like other preceding governments and regimes before Shagari government, inconsistencies in public policies, blatant disregard and neglect for constitution and constitutionalism and lack of giving adequate priority to the fight against unethical practices ruined the prospects of fighting the menace. This continued until his administration was overthrown in a military coup of December 31st, 1983. It is important therefore, to note that no matter how plausible a strategy is, its effectiveness and efficiency to a large extent depends on the seriousness given to its pursuit to succeed. This has been lacking in all our efforts at combating corruption in Nigeria.

4.5 General Muhammadu Buhari Regime (1983-1985).

The military coup that brought in General Buhari took place amidst widespread allegation of misrule, corruption and abuse of office, high level of unethical practices and mismanagement of nation's resources. As it is common with all the previous military regimes, they claimed to have intervened as a corrective regime. To demonstrate the prevalence of this menace on the Nigerian society, General Buhari noted that:

> The corrupt, inept and insensitive leadership in the past years have been the source of immorality and impropriety in our society. Since what happens in any society is largely a reflection of the leadership of that society, we deplore corruption in all its facets. This government will not tolerate kick backs, inflation of contracts and over invoicing of imports, etc. nor will condone forgery, fraud, embezzlement, misuse and abuse of office and illegal dealings in foreign exchange and smuggling (Gen Buhari in Musa, 2006:139)

General Buhari attributed the Nigerian economic and political crisis to the politicians of the Shagari administration who demonstrated high level of political irresponsibility. As such, being the perpetrators of the corrupt and unethical practices, he urges, they were not in a position to solve the problem. According to Buhari, as recorded in the Political Bureau of 1987, he remarked that:

> The economic mess, the corruption and the unacceptable level of unemployment…The shameless rigging and the widespread perversion of the electoral process could not , in all honesty, have been said to produce a government of the people by the people…The ordinary Nigeria, who certainly has the fundamental right to dignity, had become enslaved by a handful of Nigerians whose main interest was not only to perpetuate themselves in office, at any cost, but also to share among themselves the wealth of the country, while the ordinary man wallowed deeper and deeper in misery…a government that itself created conditions that promoted insecurity was obviously not in a position to check these activities. Those who plundered the national treasury openly were the least able to check other less miscreant, their co-called ethical revolution programmes not withstanding (Buhari in Political Bureau Report, March 1987:217).

The Buhari regime evolved a holistic approach of combating corrupt and unethical behaviours. His approach took into consideration the two elements that have held Nigeria ransom- these are corruption and indiscipline with the later according to him laying the foundation for corruption. General Buhari regime according to Musa (2006) dwelled on the culture of orderliness, improved work ethics, the spirit of nationalism and patriotism and economic sabotage and the culture of cleaning. All these elements are combined to form War Against Indiscipline (WAI). For maximum awareness, and easy assimilation, various vanguards were formed across the age group from children to adults with children and teenagers taught on how to frown and shun negative tendencies of our society. He indeed, had the best all encompassing record of war against social vices even though expressed in arbitrary manner and operation with the use of force as only antidote for curbing unethical practices. The regime also promulgated the Recovery of Public Property Tribunal Decree 1984, which empowered the Head of State to constitute an investigation panel into the asset of any public officers suspected to have engaged

in corrupt practices. The Buhari regime in comparison with the previous administrations and regimes was more successful in the fight against unethical practices and abuse of power even though with force and total disregard to constitutionalism. During his regime, over 50 public servants including 11 State Governors were jailed, he also declared a War Against Indiscipline which was a holistic approach to fighting unethical practices, the regime introduced the firing of armed robbers, death sentences for Drug traffickers, queuing culture in public places and the introduction of money laundering decrees. According to the White paper on the report of Justice Muhammad Bello Judicial Reviewing cases of persons, 11 civilian governor, 55 politicians and about 30 million naira were ordered to be refunded by the politicians (Musa, 2006:142).

Buhari regime's vigorous and purposeful crusade against corruption and social indiscipline is, with all its imperfection, the most significant achievement to date in the fight against unethical practice since independence. Within three (3) months in office, a national ethics campaign otherwise known as WAI was launched and pursued with all fervor and vigor to the various agencies and institutions. However, the Buhari regime concentrated on the civilians without looking inward at their own constituency, the military. For instance, in 1983, Agbese (1998) reported that after the overthrow of the Shagari government to 'save Nigeria from rampant corruption', soldiers arrested Sani Barkin Zuwo, the Kano governor. In his official mansion they found 'huge bundles' of banknotes belonging to the state government. Barkin Zuwo openly declared that this was public money being kept in the state government's official mansion by that government's most senior official. Moreover, he insisted that the amount of money the officers had actually found in his official mansion was much greater than the amount the new military government claimed to have found. In other words, that those arresting him had helped themselves with part of the booty. The regime also adopted draconian measures of uprooting corruption and neglected other preventive measures such as improving the economy and

paying civil or public servants living wages which should have reduced the temptation and justification for corruption. His regime was also noted for abuse of due process of law through arbitrary and discriminatory arrest of suspects. The widespread alienation of the populace with weakened Civil Society Groups thus, brought sense of disenchantment amongst the people. Consequently, his government collapsed with the Babangida coup of August 1985.

4.6 General Ibrahim Babangida Regime (1985-1993)

General Babangida acknowledged that corruption was an evil that needed to be tamed but not with the same approach his predecessor adopted. As such he remarked that:

> I want to nurture the Nigerian society to a position where we can resolutely reject anarchy arising from (a) the sickness of the body, spirit and mind (b) Where there is no corruption of morals (c) There should not exist wide disparity of wealth to the point where the affluent and the poor class cannot live together in harmony (Babangida in Musa 2006:143).

In order to achieve these goals, he de-emphasized the use of force as against his predecessors as the best for way of regulating people's behaviour. Thus, he established Mass mobilization for Self Reliance, Economic Recovery and Social Justice (MAMSER) and the Political Bureau as channel for redirecting Nigerians society and prepare it for a "Viable future political ethos and structure" (MAMSER, 1988:6). This regime saw political education and mobilization as a vital tool for achieving the fight against unethical practices. Aside these, the regime also created other machinery such as Alarm Audit Committee headed by the Auditor-General for the Federation with the sole aim of averting financial irregularities. There was also the presidential monitoring committee to oversee the activities and performance of state governors, the National Committee on corruption and other economic crimes in Nigeria, the re- introduction of the Code of Conduct Bureau by Decree 1989, and many others. Apart from these, the regime ensured the enforcement of laws on corruption. As such the regime imposed penalties on some politicians based on the recommendations of special judicial tribunals.

In addition, the introduction of Structural Adjustment Programme (SAP) would have gone a long way to reduce corruption because its implementation would open up the economy and discourage the central economy that allows absolute power in the hands of the greedy and selfish ruling class. If it was implemented with strong political will and sincerity, it would have encouraged the culture of accountability and transparency which are strong keys in fighting unethical practices. This was not the case as the way and manner of its operation suggests that public servant were invited to help themselves, their families and few friends thereby entrenching pervasive corruption. By showing undeserved sympathy to the elites that handled the affairs of the nation fraudulently, his regime helped in no small measure in institutionalizing corruption in Nigeria (Musa, 2006:143). No wonder Gboyega (1993) has highly observed that Babangida regime existed so that corruption would thrive. The absence of or the non-existence of functional and performing institution to deal with corrupt practices reflects to a large extent the non-challant attitude of the regime towards fighting corruption and unethical practices.

Although the regime later promulgated the corrupt practices and economic Crime Decree which provided for an Independent Commission Against Corruption, it was not implemented. His attempt to please some group cost his regime both moral and political credibility. Consequently, the regime lost out to the system that brought it to power. More-so, the regime version of the Code of Conduct Bureau exempted the President, Commander in Chief of the Armed Forces, and other principal officers from investigation and prosecution on charges of corruption during and after service and as such undermined the sincerity of purpose of this administration. This created the opportunity for large scale official corruption, large scale squander mania and wastage of public resources in his unending transition to civil rule programme where billions of naira were alleged to have been wasted without any prudence, accountability and due process. All these cost him credibility and disenchantment that characterized his

administration before he finally stepped aside in 1993. The experience under Babangida regime has shown that fighting corruption and unethical behaviours goes beyond declaration and promulgation of Decrees and establishment of institutions but must only and also be accompanied with strong political will, must be holistic with accountability and transparency in governance and improving the quality of life of the people and a living wage for salary earners will go a long way in reducing the temptation for corrupt practices.

4.7 General Sani Abacha Regime (1993-1998)

The post independent Nigerian state particularly after the Tafawa Balewa administration has had catalogue of legal and non-legal anti corruption measures. What is more perplexing is the prevalence of this menace despite several efforts by successive government. As a matter of fact, the issue of corruption and unethical practices has elevated military as a "corrective apparatus" yet the military has compounded the problem and has suffered not only condemnation but has lost political relevance.

The General Sani Abacha regime came into government at a point in Nigerian political landscape when the nation was heavily under political tension arising from the annulment of the June 12 presidential election. The regime inherited an unhealthy social ills prominent among them was the banking sector which needed a decisive decision in order to rescue the sector from the imminent collapse. The regime made several laws providing a legal framework to combat the menace. Some of the laws are the money laundering Act of 1995 now repealed; Advance Fee Fraud (known as 419) and Related Offences Act of 1995; failed Banks and financial malpractices in Banks Act of 1996; foreign exchange offences Act of 1995, some corrupt bank officials were jailed and finally, the regime equally organized international conference on corruption with Justice Kayode Eso as the chairman. He also

established National Orientation Agency (NOA) to educate and re-orientate Nigerians on ethical matters.

His death on the 8th June 1998 revealed the paradox and contradiction surrounding the sincerity and his commitment towards fighting corruption. It was revealed that he stole between 2-3% of Nigerians annual Gross Domestic product (GDP). His fight against unethical practices failed because his regime ignored corruption at the highest level. His penchant for wealth acquisition against all governance principles faulted his fight against corruption. Bayort (cited in Odekunle ,2001) noted that African states are a continuum of internal kleptocracies, and Richrad's prebendalism. The loot recovered after his demise attest to this assertion.

Thus, corruption and the fight against this menace have remained an illusion and chasing the shadow. His sudden death brought another military "a child of circumstances" to power under the leadership of General Abdulsalami Abubakar who hurriedly organized a transition programme and handed over power to a civilian government under the leadership of President Obasanjo.

4.8 President Olusegun Obasanjo (1999-2007)

The ubiquity and prevalence of corruption in Nigeria is no longer debatable; what is perplexing is why it has defied several efforts. When President Olusegun Obasanjo assumed office in 1999, corruption and unethical practices had grown to a tidal wave and considering its negative implications on the nation's development and image, the president assured Nigerians of his interest to fight it. He, in his inaugural addresses stated that:

> In giving me their mandate, they have asked me to lead this country by example. They asked me to lead them by a right … They want me to alleviate their poverty and reduce their corruption … I will fight corruption(Obasanjo,1999).

To justify that he meant what he said and considering his hitherto dysfunctional idealistic and moralistic disposition that never worked, his administration saw need to enact similar or new legal framework with political will to match. This resolve among other things led to the establishment of the following agency and institutions designed to stem the tide of corruption and unethical practices.

4.8:1The Independent Corrupt Practices and other related Offences Commission (ICPC).

The independent corrupt practices and other related offences commission was the first and the apex body established by law to fight corruption and other related offences. It was established and empowered by the ICPC Act 2000. It was inaugurated on the 29th September 2000. Section (3) 14 of the Act ensures the independent of the Commission as not being subject to the direction or control of any person or authority. The Commission is charged with three basic functions.

I. To receive and investigate reports to conspiracy to commit offences or made attempt to commit
II. To examine, review and enforce the correction of corruption prove systems and procedures of public bodies; and
III. To educate and enlighten Nigerians against corruption (Musa, 2006:154).

In spite of its few achievements, the commission is saddled with financial constraints. This has not only ridiculed the commission before the public but it has also put into question the sincerity and the political will of the president at fighting corruption.

4.8:2 Budget Monitoring Evaluation and Intelligent Unit (Due Process)

There has been a fast disappearance of approved government business behaviour. Such behaviour and practices are responsible for various classes of abuses perpetrated by officials. President Obasanjo noted that the business of governance is a continuous one and as such, those who do not wish to be part

of the battle or who find it too suffocating for them must not attempt to hinder us in our efforts" (Obasanjo, April 2000) The attempt was designed to curb the abuse of due process procedures for the award of contracts or any government business with the ultimate aim of restoring public confidence and promoting accountability and transparency in government activities. What the government of president Obasanjo observed and adhered to the principle considering the level of corrupt allegations leveled against the National Assembly and some executive members and even the president after he left office remains a question that pose suspicion and cast aspersion on the sincerity of the president at fighting corruption.

4.8:3 The Economic and Financial Crime Commission (EFCC)

The establishment of the Economic and Financial Crimes Commission (EFCC) through the Act 2004 was remarkable as it dispel the assumption by some people that apart from the military regime, no civilian administration is strong enough to fight corruption. The EFCC was a major departure from the previous measures, in terms of powers, functions, responsibilities and the level of independence and funds available to it. Section 5 and 6 of the Act establishing the commission stipulates its function as:

> … the enforcement and the clear administration of the Act through investigation of all complaints arising from corrupt practices, the coordination and enforcement of all economic and financial crimes; the adoption of measures to identify, trace, freeze, confiscate or the seizure (recovery) of proceed derivable from such illegal act; the adoption of measures to eradicate, prevent and any other regulatory actions necessary by commission to combat such illegal acts (EFCC Acts 2004).

In appraising the performance of the EFCC, many serving public officers have been investigated and prosecuted in various courts in Nigeria for various offences. The major point of departure in terms of the activities of the EFCC and other anti-corruption agency of the Obasanjo regime is the investigation, prosecution and arrest of some notable public servants such as the IG of police, Governors, Ministers and many others. Unlike the previous regime that could not investigate and prosecute serving public

officers except by their successor after they have left office, serving public officers were investigated, prosecuted and some jailed for corruption and abuse of office. This alone creates the impression that all hope is not lost in the fight against corruption and unethical practices in Nigeria.

Although Obasanjo government has been criticized especially on the activities of the EFCC for been used as a political strategy to crush opponents, enemies, perceived or real, or as a bargaining political power among those seen as perceived threats to his ambition especially at the point when his third term agenda was at its peak. It can therefore be observed that EFCC has demonstrated that corruption can be tamed and combated if the will and resources required are made available. The activities of the EFCC has relatively improved our international image and restored confidence on governance system in Nigeria. There is therefore no doubt that the Obasanjo government despite its weaknesses has demonstrated enough commitment to its fight against corruption but the efforts of these anti-corruption agencies must not only be sustained but their autonomy from political manipulation should be guaranteed. The administration efforts at improving the welfare of the people through its various reform programme must be commended. It can therefore be said that Obasanjo's government adopted holistic approach towards fighting corruption and unethical practices in Nigeria between 1999-2007.

4.8:4 Nigerian Extractive Industries Transparency Initiative (NEITI)

The history of the evolution of NEITI cannot be completed without reference to the former British Prime Minister, Tony Blair who in 2002, at the world summit on sustainable development in South Africa initiated the process. This initiative was designed to increase transparency in revenue flows between oil, gas and mining companies and their host governments. In essence, NEITI was meant to monitor and publicize these revenues so that citizens can have their governments to account for their

use of the money (Ikubaje, 2006). The objective is to increase transparency over payments and revenue in that extractive industries in countries heavily dependent on these resources while the goal is to employ revenue transparency to help tackle poverty, conflict and corruption in what has come to be known as the devil's excrement.

Considering the fact that Nigeria is the largest oil and gas producer in Africa and the first country to sign up to the Extractive Industries Transparency Initiative (EITI) immediately after it was launched as part of its broader anti-corruption campaigns, it is an indication of Nigeria's resolve to fight unethical practices. From 9th -20th February 2004, president Obasanjo launched the NEITI and appointed a total number of 28 Individuals (14) from the government, the Legislature (4), Oil Companies (3) Organized Private Sector (4) Media (1) and the Civil Society (2) to constitute the National Stakeholders Working Group (NSWG), the platform from which the Federal government Plans to implement the initiative. The activities of the NEITI are numerous but it actually commenced after the NSWG was inaugurated in 2004. With the support of DFID, the World Bank and USAID, it organized several workshops, seminars and trainings for selected stakeholders on EITI principles. It also appointed following a highly competitive process the Hart Group, a London based firm as an external auditor to audit the oil and gas sector from 1999-2004. The federal government has been implementing the EITI principle. No wonder Heigen (in Ikubaje, 2006), noted that the result of NEITI in Nigeria has positioned the country as one of the leading EITI implementers globally. The NEITI has recorded remarkable achievement as it has bought into the global EITI campaign, established its national initiative, and contributed to exposing malpractices in the oil sector. However, the interest of the foreign stakeholders (oil companies) needed to be critically examined to ascertain the reason for their commitment to the campaign and also it should transcend dealing with revenue to expenditure of the oil money- that is to say, it should not only deal and publish pay what you Earn but to also publish

how you spend it. The inability of the then government to accept and correct what the NEITI reports consider to be wrong with the Nigerian oil sector also put to question the seriousness of the government towards fighting corruption in the oil sector. The way and manner the stakeholders were constituted also reflects that they were imposed by the federal government to serve the president or the interest of the ruling class.

In conclusion, President Obasanjo's government took a holistic approach towards the fight against corruption and unethical practices by establishing both legal and non legal, instituted measures of fighting it led to the establishment of the institution mentioned and discussed above and strengthened existing ones such as Code of Conduct Bureau and Coe of Conduct Tribunal, Public Complaints Commission, etc. However, the scourge has remained endemic with us.

In the light of the literature reviewed, it can be observed that there are several factors that make public ethics, accountability and transparency difficult in Nigeria and these are:

- The beneficiaries of unethical behaviour, unaccountable and non transparent government are typically concentrated on relatively few, while the consequences spread across many. This means that those who benefit from abuse of office or unethical practices each individually have a powerful interest in perpetuating it, while each individual who suffers from same will rationally (because their individual suffering is small) invest little in fighting it. The implication of this is that the beneficiaries will not show any serious commitment to fight it.
- Unaccountable and nontransparent practices flow from the powers of public office. It follows that those who benefit from such unethical practices are often among the most powerful and control state machinery; while those who suffer from it are typically less powerful to stage any productive fight against unethical practices.

- Unethical and Corrupt practices can take many forms, most of them difficult to detect because of its secretive nature. So any move to reduce or combat it can often be circumvented by those who benefit from it, and this circumvention may go unnoticed by the reformers fighting it except if transparency is given its place to function well.
- In addition to the above, this study can posit that one of the reasons responsible for the prevalence of corruption and unethical practices is because with the emergence of oil and a petrol-dollar state with the accompanying vast expansion of the state's economic activities, controls and a vastly increased government spending on development projects without a corresponding commitment to promoting egalitarianism and social justice, these have created a opportunity for accumulating massive wealth through corrupt and unethical practices without strengthening institutional mechanisms to check such abuses.. Under the military for instance, it was not possible for them to create ethical environment because Nwabueze (1992) has rightly observed that, while official corruption was among the social ills to come under the corrective hammer of the military government from the very beginning, its anti-corruption measures failed to eradicate or even check it in part because they or their enforcement were directed against corruption committed by the members or during the time of a preceding government but not against present corruption. This is manifested in almost all the military regime's attitude and reactions towards allegation of corrupt charges against any member of their government.
- Finally, the phenomenon of corruption and unethical practices have prevailed and persisted because the practice of prebendal exploitation which is mutually profitable in a neo-patrimonial society like Nigeria provided those who profit redistribute appropriately to the same category of people or their loyalists.

One fundamental observation that can be deduced from all successive government in Nigeria except the Obasanjo democratic government and particularly the military regime dubbed as a corrective regime is that its agents, measures and decree enacted to fight unethical and corrupt practices failed to eradicate or check corruption partly because they, on their enforcement were directed against corruption committed by the members or during the period of the preceding regimes but not present corruption. Classical examples among others include the nine year regime of General Yakubu Gowon. As early as 1968, he enacted the basic legislation on the matter for the investigation of Assets (Public Officers and other Persons Decree), which instituted a machinery for the declaration of assets, their investigation and forfeiture of assets of some of the ousted civilian rulers of the First Republic. The machinery was however not invoked against any act of corruption committed during his government. It was not that his government was corruption free as the panel set up by the Murtala/Obasanjo government revealed that corruption was promoted to high level during Gowon regime. The report of the panel found all except two of his military administrators guilty.

During the Murtala/Obasanjo's four and half year ($4^{1/2}$) regime, no investigation was instituted into corruption committed by any of its members, while the regime dealt severely with corruption committed by the previous regime. This continued before power was handed over to a civilian government. Another example is the General Babangida's regime (1985-1993). The regime enacted so many decrees and established several measures designed to fight corruption but his version of the Code of Conduct Bureau for instance exempted the President and Commander in Chief of the Armed Forces and other principal officers from being investigated and prosecuted on charges of corruption during and after service and this singular act created an opportunity for large scale corruption. No wonder Gboyega (2002) remarked that the Babangida regime existed so that corruption could thrive. In addition, most of the judgments of the judicial panels were recommendations leaving the Armed Forces Ruling Council

or the Supreme led Military Council as the case may be to take the decision. The consequence of this is that it creates a credibility gap between the government and the public. This Nwabueze (1992:298) observes that:

> A government that enacted anti-corruption measures but refused or neglected to enforce than against its own members whose corruption was a notorious fact and was openly displayed is lifestyle of ostentatious splendour, and which protested egalitarianism as one of its objectives and yet allowed its members and their associates in business to a mass so much wealth could not but appear to its citizens as hypocrites unworthy of credibility.

All these have been shown to justify the seriousness and the commitment of government in the fight against unethical and corrupt practices. In the light of the foregoing, it is not enough to establish Institutions for combating unethical practices, it must be accompanied with the corresponding political will and commitment by the political leadership before it can function. In the absence of this will and commitment, political leadership can deprive such institutions the requisites conditions or what structural-functional scholars describe as functional prerequisites for effective performance.

Another fundamental reason for the failure of the previous efforts is because of the vast expansion of the Nigerian state in the economic development activities. The vastly increased government spending especially after the discovery and exportation of oil in Nigeria made government to be the sole financier of government development project and this has created avenue for amassing private wealth or primitive accumulation. This becomes inevitable as there is near absence of strong institutions for transparency and accountability or functional mechanisms for checking unethical practices.

The non-holistic approach embarked upon by most of the regime is also responsible for the near failure of these regimes. Corruption and unethical practices is not only systematic in Nigeria but

endemic and a tidal wave kind and as such the fight should not be partial but a holistic and multifaceted in approach.

Inadequate sensitization of the populace: The occasional presidential, legislative, retreat, seminar and workshops organized by some of the anti-corruption agencies, is not enough to get the Nigerian population educated and get them involved in the fight which they are the major victims, most of these agencies are not even domesticated at the local level as such, the people at the grassroots are adequately ignorant about the activities of some of these agencies.

Finally, another reason responsible for the failure of these anti-corruption agencies is poor or under funding. Most of the agencies established to fight corrupt and unethical practices are either underfunded or poorly funded. The fight against unethical practices is complex and capital intensive but experience of the previous administration has shown that there are not well funded as such incapacitated to perform adequately.

CHAPTER FIVE

EVOLUTION AND MANDATE OF THE CODE OF CONDUCT BUREAU AND CODE OF CONDUCT TRIBUNAL

5.1 Historical Background of the CCB and CCT

The need to provide the necessary mechanism and instruments for stemming the tide of unethical practices and corrupt behaviour in Nigeria has long been acknowledged and recognized. Historically, Nwakamma (1986) has observed that an ordinance to establish a criminal code which made provisions against corruption by public officers was first enacted in June 1916. Contemporarily, these provisions have been codified and re-enacted in chapter VII of the criminal code law, chapter 42, Laws of the Federation of Nigeria and Lagos 1958. Section 98,106 and 114 of the said code made copious provisions against offences which can be classified as unethical and corrupt practices.

Furthermore, in recognition and appreciation of the fact that the channel of controlling unethical and corrupt practices was no longer adequate enough to meet all the cases, successive post independent governments in Nigeria both Civilian and Military regimes have created and established one institution, agencies or another to supplement the regular channels for controlling unethical practices. Some of these institutions take the forms of Adhoc Commission of Inquiry, or permanent bodies or agencies and Decrees. According to Dunmoye(2001) three main methods have been used to sensitize the public especially civil servants and political office holders, on the need to ensure probity, accountability, impartiality, hard work and transparency in the public service. These methods he added, serve particular purposes, which are preventive, management, deterrence and enforcement. In addition, there have been public enlightenment campaigns that carry out traditional core values of probity and selfless service in the public life. This was specifically carried out and reflected in the Alhaji Shehu

Shagari Ethical re-orientation Revolution, General Muhammadu Buhari's War Against Indiscipline(WAI) and General Sani Abacha's War Against Indiscipline and Corruption (WAI) designed to enforce discipline. Whether these institutions have justified the purpose for their establishment remains rhetorical considering the persistence and prevalence of these social ills. As for the management of the public servants, the Code of Conduct Bureau/Tribunal was enshrined in the fifth schedule of the 1979 Constitution. But before the 1979 Constitution, in 1975, the Nigerian nation witnessed the enactment of the Corrupt Practices Decree later repealed under Decree No 38 of the defunct Corrupt Practices Investigation Bureau (CPIB) which was set up with tremendous powers to investigate cases of corruption and abuse of office in Nigeria. Even though this organization was meant to control unethical practices and corruption in Nigeria, it must be clearly noted that Section 19 of the corrupt practices Decree made it mandatory on the Head of the Federal Military Government (FMG) to establish Tribunals for the trials of offences under the decree but none were established. Consequently, the Corrupt Practices Investigation Bureau which was established through the Decree was killed by the enactment of the 1979 Constitution. As Nwakamma (1986), has remarked, the 1979 Constitution which killed the CPIB gave birth to another child, ambitiously called the Code of Conduct Bureau, and its sister, the Code of Conduct Tribunal.

5.2 Evolution and Structure of the Code of Conduct Bureau and Code of Conduct Tribunal

The imposition of a duty to observe and conform with a Code of Conduct by Public Officers is an innovation of the 1979 Constitution, that is retained by the General Abubakar Abdulsalami's hurriedly packaged 1999 Constitution. The Code of Conduct prohibited, ***inter alia***, the giving and receiving of bribes, abuse of office by Public Officers, the operation of private foreign accounts, as well as conflict of personal interest with official duties on the part of Public Officers. Pivotal to the Code is the scheme of declaration of assets required of every Public Officer within three months of the coming

into force of the Code or immediately after assuming office and thereafter at the end of every four years, and finally at the end of his/her term of office. The Code of Conduct Bureau is charged with the responsibilities of receiving, retaining custody of and examining assets declaration forms filled by Public Officers. It is also vested with the duty of receiving and dealing with allegations that a Public Officer has committed a breach of or has not complied with the provisions of the Code of Conduct. The Tribunal conducts the administrative adjudication on all allegations of contraventions of the Code of Conduct and imposes any of the punishments specified by the Constitution. The extent to which the CCB and CCT has performed these functions would be empirically assessed in this study.

In the fifth schedule of the 1979 Constitution, provisions has been made for the establishment of the Code of Conduct Bureau whose function is to receive and examine the declarations of assets by public officer. Their establishment and functions is contained in section 15-20 of part 3 to the fifth schedule of the 1979 constitution. One fundamental point of departure of the Second Republic from the First Republic is in the provision of a Code of Conduct Bureau and Code of Conduct Tribunal to regulate the public officers and to check the abuses in the exercise of state powers on the part of public officers. As argued by CDC reports (cited in Dudley, 1992:136):

> Our recent experience has spotlighted the extent to which corruption and abuse of office has eaten deeply into the fabric of the public service of the country. We are all convinced that if a reoccurrence of that experience was to be effectively checked within is essential that provisions be made in the constitution to ensure that persons who are entrusted with public authority do not abuse their trust and enrich themselves or defraud the nation.

It is against this background that the Fifth Schedule of the 1979 Constitution encapsulates the establishment of the Bureau and Tribunal. However, the Bureau could not function because the then National Assembly which was to provide the enabling Bill for its operation could not do that before the military coup terminated the second republic. However, in 1988, under General Ibrahim Babangida's administration, a ten-member Board headed by late Canon H.O. Mohammed was inaugurated. It went

further to promulgate Decree 1 of 1989 to give legal backing to the Code of Conduct Bureau and Code of Conduct Tribunal. In 1999, the General Abdulsalami Abubakar's administration re-enacted, strengthened and enshrined the Code of Conduct Bureau in Section 153, Third Schedule, Part 1 and Fifth Schedule, part 1 of the Constitution of the Federal Republic of Nigeria and became operational till date.

5.3 Mandate and Powers of the Bureau and Tribunal

The aim of the Bureau is to establish a high standard of morality in the conduct of Government business and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability (CCB,2010). To implement this aim, section 3 part 1 of the Third Schedule of the 1999 Constitution of the Federal Republic mandated the Bureau/Tribunal to among other things:

i) Receive declarations by the public officers under paragraph 12 of part 1 of the Fifth schedule to the constitution

ii) Examine the declarations in accordance with the requirements of the Code of Conduct Bureau or any law.

iii) Retain custody of such declarations and make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe

iv) Ensure compliance with and, where appropriate, enforce the provisions of the Code of Conduct or any law relating thereto.

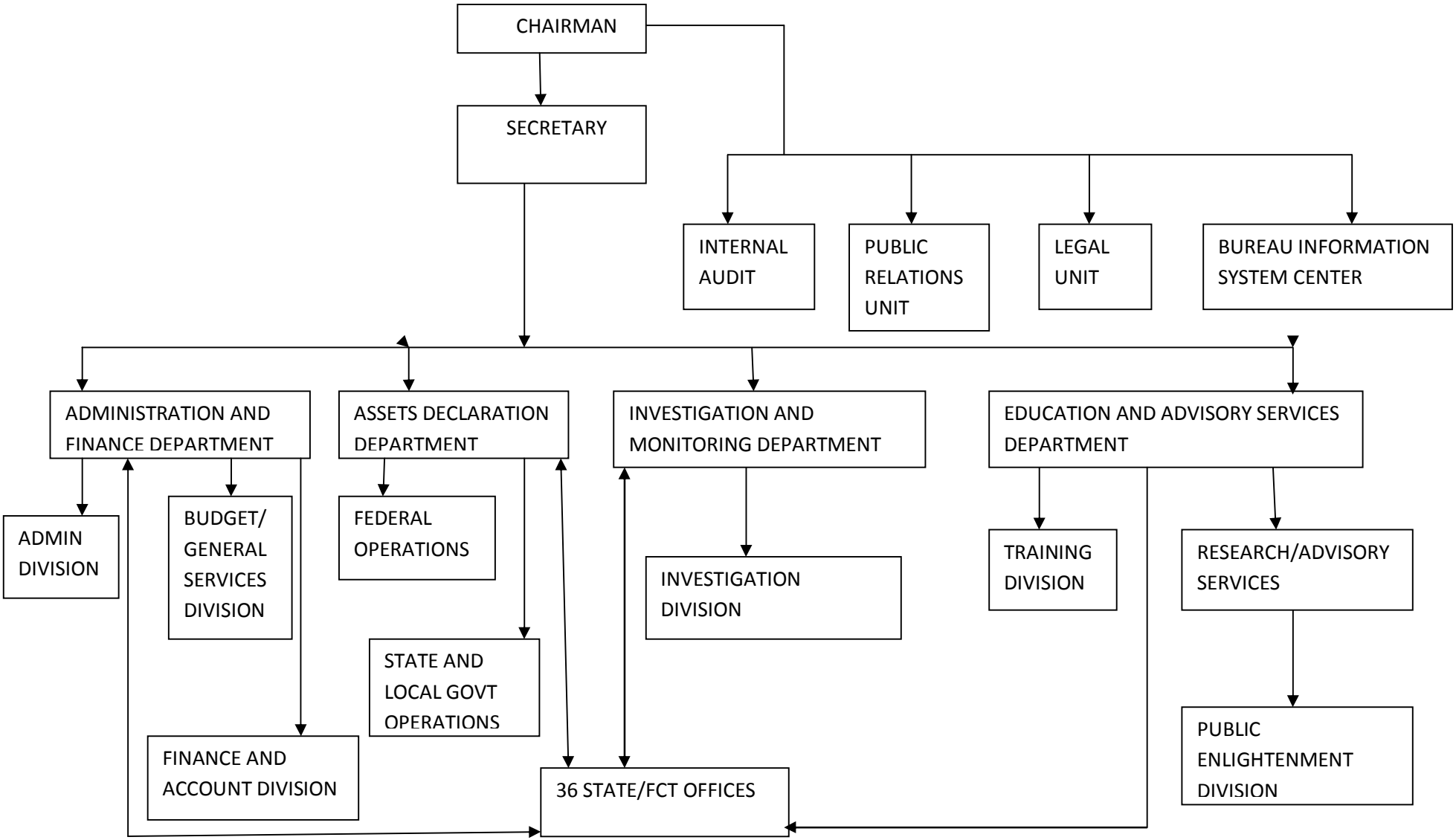
v) Receive complaints about non-compliance with or breach of the provisions of the Code of conduct or any law in relation thereto, investigate the complaints and where appropriate, refer such matters to the Code of Conduct Tribunal.

The Fifth Schedule, Section 15 of the 1979 and the 1999 Constitution of the Federal Republic Nigeria provides for the establishment of the Code of Conduct Tribunal which shall consist of a chairman and two other persons. This Tribunal is empowered by Section 18(2) to punish any public officer who contravenes any of the provision of the code. The punishment shall include any of the followings:

(i) Vacation of office or Seat in any legislative houses, as the case may be;
(ii) Disqualification of membership of a legislative house from the holding of any public office for a period not exceeding ten years; and
(iii) Seizure and forfeiture to the state of any property acquired in abuse or corruption of office.

In order to perform the above functions, the Bureau is organized and structured as presented in the organogram below.

Table 5.4:1 Organogram of the Code of Conduct Bureau



From the organogram presented above, it is expedient to briefly describe the functions of the various organs that constitute the Bureau. The Bureau has four (4) main department including Administration and Finance Department which is essentially a service department. However, the main operations of the Bureau are carried out through the other three departments. These are Asset declaration, Investigation and Monitoring and Education and Advisory services.

Asset declaration is the major instrument with which the Bureau enforces the Code of Conduct for public officers. The Bureau is the only body constitutionally empowered to administer asset declaration to public servants in the federation. As such, information contained in the Asset Declaration Forms (ADFs) are used to facilitate investigation of petitions received by the bureau and even those by other anti-corruption agencies with whom the Bureau collaborates. In line with the constitutional mandates of the Bureau, the Asset Declaration department administers, verifies and keeps custody of ADFs of public officers. It also compiles list of defaulters and arraign them before the Tribunal. According to the report of the Bureau(2009:5-6):

> Asset declaration department also carries out verification of Assets declared by public officers. This exercise ensures that what is declared is confirmed through scrutinization of relevant documents, assets profiling and tracking. Through this method, anticipatory declarations are exposed. In the same breath, periodic verifications of Assets declared by public officers enabled the department to match initial declaration with subsequent ones. The essence is to detect acquisition of properties that do not match legitimate income.

Public officers in this category are called to explain whatever discrepancy is noticed and observed and those found guilty by the legal unit would be prosecuted and possibly forwarded to the Tribunal for further action.

Another important organ of the Bureau is the Investigation and Monitoring department. In line with the mandate of the Bureau to receive complaints of non-compliance with or breach of the provisions of the Code of Conduct, the Bureau has a unit under this department known as

Petition Screening Committee(PSC) which serve as clearing house for all petitions received at the Bureau. The Bureau(2009:7) asserted that:

> To enhance its professionalism, integrity and morality in the handling of complaints and petitions, the PSC takes decisions ranging from inviting parties mentioned in petitions, directing field investigations when necessary, referring cases outside the mandate of the Bureau to relevant agencies, discontinuation of cases where there is paucity of evidence and where necessary refer cases to the Code of Conduct Tribunal for prosecution.

The fourth organ is the education and advisory services department. As part of the moralistic perspective of the bureau's mandate, it carries out enlightenment programmes aimed at giving orientation to public officers on the Code governing their conduct in office, and sensitize the public on its responsibility to insist on transparency and demand accountability. The department, in addition to the campaign activities also organizes training and retraining programmes to help develop the capacity for effective performance. To enforce the Code, the Constitution gives the Bureau the power to receive, and examine assets declarations, investigate complaints about non-compliance with or breach of the provisions of the Code and where appropriate refer such matters to the Code of Conduct Tribunal. The advantage of being established along with the Code of Conduct Tribunal which is autonomous but with complimentary roles as a Court to cases on breaches of the Code of Conduct for public officers as the Bureau (2009) report noted is to facilitate the implementation of the Bureau's mandate.

It is necessarily important to state at this point that constitutional power is vested on the president to appoint Chairman, and other Board members of the Bureau but subject to the approval of the National Assembly members. This also justify the Marxian political economy argument that the state is but machinery in the hands of the ruling class as the president would always appoint those who would serve his interest or those who would be absolutely loyal to him and his interest. Isa Kaita was the pioneer chairman of the Bureau even though it never took off because

the then National Assembly could not provide the necessary legislative backing to enable it function before the military struck in 1983.But when President Ibrahim Babangida took over in 1985, he re-introduced it in 1989 and made Rev Canon the chairman. Below is a table showing all the chairmen of the Bureau from inception and the period of administration.

Table 5.4:2 List of all CCB Chairmen and Period of Administration

SN	NAMES OF CHAIRMEN	PERIOD
1	REV CANON MOHAMMED UMAR HALIL	1989-1993
2	JUSTICE HARUNA DANDAURA	1994-2000
3	NAVY CAPT E.E.NSAH(OVERSEER)	2000-2005
4	BARR YAKUBU MURI TUKTUR(ACTING)	2009- APRIL 2010
5	MR SAM I. SABA	30th April 2010-DATE

SOURCE: FIELD WORK,2011.

On the manpower or the staff strength of the Bureau, it is recorded in the official document of the Bureau 2010:23 thus:

> The Bureau is saddled with a mandate that requires more staff than it presently has. All the four(4) Departments of the Bureau and its thirty-six (36) State Offices and FCT need a minimum of One Thousand Eight Hundred(1,800) staff compared to about six hundred (600) that is its current manpower.

In this circumstance, the document added, the Bureau needs a waiver to increase its staff strength with emphasis on the recruitment of professionals such as Engineers, Estate Surveyors and Valuers, Investigators and Financial Analysts so as to make the Bureau more professional in its verification exercises and investigations.

5.4 Code of Ethics of Work for Public Officers

The need for Code of Conduct for public officers in Nigeria became necessary particularly when juxtaposed with the large scale corruption and unethical practices prevalent in the land and the development crisis facing the country that is abundantly blessed with enormous human and natural resources. In order for Nigerians to rid themselves of this menace and to conscientize themselves towards acceptable behaviour, a set of Code of Conduct for public officers have been enshrined in the constitution. The Code of ethics or conduct governing public officers for which a violation would constitute corruption and unethical practices as enshrined in the Fifth Schedule Part I to the 1999 constitution and as contained in the CCB,(2010:5-10) include the following:

1) Conflict of interest. Here, a public officer shall not put himself in position where his/her interest conflicts with his/her duties and responsibilities.

2) Restriction on Specified Officers. Under this, and without prejudice to the generality of the foregoing paragraph, a public officer shall not(a) receive or be paid emoluments of any public officer at the same time as he/she receives or is paid the emoluments of any public officer; or (b)Except when he/she is not employed on full time basis, engage or participate in the management of or any running of any private business, profession or trade; but nothing in this paragraph shall prevent a public officer from engaging in farming or participating in managing or running any farm

3) Prohibition of Foreign Accounts. Here, the President, Vice President, Governors, Deputy Governors, Ministers of the Government of the federation and Commissioners of the Government of States, Members of the National Assembly and

Houses of Assembly of the States and such other public officers or persons, as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria

4) Prohibition of Retired Public Officers from Accepting More Than One Remunerative Position. Here, a public officer shall not, after his/her retirement from public service and while receiving pension from public funds accept more than one remunerative position as Chairman, Director or employee of a company owned or controlled by the government or public authority or receive any other remuneration from public funds in addition to his pension and emolument of such one remunerative position

5) Prohibition of Certain Retired Public Officers From Employment in Foreign Enterprises. Here, (a) Retired officers who have held officers to which the paragraph applies are prohibited from services or employment in foreign companies or foreign enterprises(b)The paragraph applies to the office of the president, Vice President, and Chief Justice of Nigeria, Governors and Deputy Governors of a state.

6) Prohibition Against Accepting Any Gifts or Benefits. Under this: (i) A public officer shall not ask for or accept any property or benefit of any kind or any other person on account of anything done or omitted to be done by him/her in the discharge of hs/her duties(ii) For the purposes of sub paragraph(i) of this paragraph, the receipt by a public officer of any gifts from commercial firms, business enterprises or persons who have contracts with the government shall be presumed to have been received in contravention of the said sub- paragraph unless the contrary is proved(iii) A public officer shall only accept personal gifts or benefits from relatives or personal friends to

such extent and on such occasions as are recognized by customs, provided that any gifts or donation to public officers on any public or ceremonial occasions shall be treated as gifts to the appropriate institutions represented by the public officers, and accordingly, the mere acceptance or receipt of any such gifts may not be treated as a contravention of this provision

7) Restriction on Loans, Gifts or Benefits to Certain Public Officers. Here, the President and Vice President, Governor and Deputy Governor, Minister of the government of the Federation or Commissioners of a state or any other public officer who holds office of Permanent Secretary/Director General or head of any public corporation, university or other parastatal, organization shall not accept;(a) a loan, except from government or its agencies, a bank, building society or other financial institution recognized by law; and (b) any benefit of whatever nature from any company, contractor, or businessman/woman, or the nominee or agent of such person; provided that the head of public corporation or of any university or other parastatal organization may; subject to the rules and regulations of the body, accept a loan from such body

8) Prohibition Against Offering Any Property, Gift, Benefit or Bribe. Under this, No person shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his/her favour of the public officer's duties

9) Abuse of Office. Here, a public officer shall not do or direct to be done in abuse of his/her office an arbitrary act prejudicial to the rights of any persons knowing that such act is unlawful or contrary to any government policy

10) Prohibition Against Membership of Societies. Here, a public officer shall not be a member of, belong to, or take part in any secret society and or any society the membership of which is incompatible with the functions and dignity of his/her office

11) Declaration of Assets. Under this section, (A) Every public officer shall within 3 months after taking office and thereafter;(i)at the end of every four years, and (ii) at the end of his/her term of office, submit to the Code of Conduct Bureau a written declaration of all his/her properties, assets and liabilities and those of his/her spouse or unmarried children under the age of 21 years (B) Any statement in such declaration that is found to be false by any authority or persons authorized in that behalf to verify it shall be deemed to be a breach of this Code(C) Any property or asset acquired by a public officer after any declaration required under this Constitution and which is not fairly attributable by appropriate sections on gifts and loans approved by the Code shall be deemed to have been acquired in breach of this Code unless the contrary is proved

12) Allegation of Breach of Code. Here, Any allegation that a public officer has committed a breach of or has not complied with provision of this Code shall be made to the Code of Conduct Bureau

13) Agents and Nominees. Under this section, A public officer who does any act prohibited by this Code through a nominee, trustee or agents shall be deemed *ipso facto* to have committed a breach of this Code.

14) Exemptions. Under this section and in its application to public officers (a) Members of Legislative Houses shall be exempted from the provisions of paragraph 4 of this code and(b) The National Assembly may by law exempt any cadre of public officers from the provisions of paragraph 4 and 11 of this code if it appears to it that their positions in the public service is below the ranks which it considers appropriate for the application of those provisions.

In the light of the above, it should be noted that electronic and print media reports are admissible in the Code of Conduct Bureau investigations and monitoring activities as authentic sources of information and data gathering. However, past experiences have shown that more still needs to be done to bring the activities of the Bureau into the public light and reality considering the fact that the larger percentage of people who don't have access to the media(electronic and print), but yet, have valuable information about unethical and corrupt practices by some public office holders may have been denied the chance of making their case known and they should be protection for those individual who may have genuine and authentic information that may be of use to the Bureau.

The following categories are referred to as public officers for the purposes of the Code of Conduct as enshrined in Part II of the Fifth Schedule to the Constitution of Nigeria as amended. These are:

> "The President of the Federal Republic of Nigeria, the Vice President of the Federal Republic of Nigeria ,the President and Deputy President of the Senate, the

> Speaker and Deputy Speaker of the House of Representatives, the Speaker and Deputy Speaker of the State Houses of Assembly, and all members and staff of Legislative Houses; Governors and Deputy Governors of States; Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other Judicial officers and all staff of Courts of law, Attorney General o0f the Federation and Attorney of each State; Ministers of the Government of the Federation and Commissioners of the Government of the States; Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff, Chief of Air Staff, and all members of the Armed Forces of the Federation; Inspector-General of Police, Deputy Inspector-General of Police, and all members of the Nigerian Police Force and other Government Security Agencies established by law; Secretary to the Government of the Federation, Head of Civil Service, Permanent Secretaries, Directors-General and all other persons in the Civil Service of the Federation or of the State; Ambassadors, High Commissioners and other officers of the Nigeria Missions abroad; Chairmen and Members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal; Chairmen Members and staff of Government Councils; Chairmen and Members of the Boards or other Governing Bodies and staff of Statutory Corporations and of Companies in which the Federal or State Governments have controlling shares, All staff of Universities, Colleges and institutions owned and financed by the Federal and State Governments or Local Government Councils and Chairmen, Members and staff of Permanent Commissions or Councils appointed on full time basis (CCB,2010:2-3).

In enforcing the provision of the Code of Conduct Bureau and Tribunal law, paragraph 2(e) of the Third Schedule to the 1999 Constitution empowers the Code of Conduct Bureau to receive complaints about non-compliance with or breach of the provisions of the Code of Conduct Bureau or any law relating thereto; investigate the complaints and where appropriate refer such matters to the Code of Conduct Tribunal. Paragraph 18 of the Fifth Schedule to the Constitution states that:

> (I) Where the Code of Conduct Tribunals finds a public officer guilty of contravention of any of the provisions of the Code it shall impose upon that officer any of the punishments specified under this sub-paragraph and such other punishment as may be prescribed by the National Assembly.
>
> (II) The punishment which the Code of Conduct Tribunal may impose shall include any of the following:

(a) Vacation of the office or seat in any legislative house, as the case may be;

(b) Disqualification from membership of a legislative and from holding of any Public office for a period not exceeding ten years; and

(c) Seizure and forfeiture to the state of any property acquired in abuse or Corruption of office (CCB,2010:13).

The law further states that the sanctions mentioned above shall without prejudice to the penalties that may be imposed by any law where the conduct is also a criminal offence. However, where the Code of Conduct Tribunal gives a decision as to whether or not a person is guilty of the contravention of any of the provisions of this Code; an appeal shall lie as of right from such decision to the Court of Appeal at the instance of any party. Furthermore, though the law gives right of appeal, paragraph 18(7) of the Fifth Schedule of the Constitution, states that "the prerogative of mercy shall not apply to any punishment imposed in accordance with the provisions of this paragraph. In addition, the sanction in paragraph 2 above shall be without prejudice to the penalties that may be imposed by any law where the conduct is also a criminal offence.

Both the Nigerian 1979 and 1999 Constitution of the Federal Republic of Nigeria clearly states that there is hereby established a bureau to be known as the Code of Conduct Bureau otherwise referred to as the Bureau. The Bureau shall consist of a chairman and nine other members who shall be (a) persons of impeachable integrity in the Nigerian society; and (b) at the time of appointment, not less than fifty years. The chairman and other members of the Bureau shall be appointed by the president subject to the confirmation of the senate.

In a nutshell, the Code of Conduct Bureau and Tribunal were enshrined in the 5th Schedule of the 1979 constitution and further strengthened in the 1999 Constitution to among other things perform the following functions:

- To receive assets declaration by public officers in accordance with the provision of the Act;
- To examine the assets declaration and ensure that they comply with the requirements of this Act and of any law for the time being in force;
- To take and retain custody of such assets declaration; and
- To receive complaints about non-compliance with or breach of this Act and where the Bureau considers it necessary to do so, refers such complaints to the Code of Conduct Tribunal.
- To investigate complaints alleging corruption on part of public officers;
- The tribunal is empowered to punish any public officer who contravenes any provisions of the code;
- Seizure and forfeiture to the state of any property acquired in abuse or corruption of office;
- To remove from office, public officers guilty of contravention of the code of honour drawn up by the bureau;
- To mobilize the public to form vanguard for anticorruption.

It is therefore a conscious effort at closing the moral gap between the public realm and the private realm in Nigeria but the extent to which these functions have been realised constitutes the objects of empirical verification of this study.

CHAPTER SIX

ASSESSMENT OF THE FUNCTION-PERFORMANCE OF THE CODE OF CONDUCT BUREAU (CCB) AND CODE OF CONDUCT TRIBUNAL (CCT) PUBLIC ETHICS PRACTICES IN NIGERIA, 1999-2007.

6.1 Functions-Performance Assessment of the Code of Conduct Bureau (1999-2007).

This chapter is sub-divided into two with the first section focusing on the function-performance of the CCB; while the second section is centred on the function performance of the Code of Conduct Tribunal.

The Code of Conduct Bureau (CCB) was established by Decree 1 of 1989 which has metamorphosed into CAP 56 LFN 1990 and now CAP C15 LFN 2004 with the mandate to establish and maintain a high standard of morality in the conduct of government business and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability. The Third and Fifth schedule of the 1999 constitution of the Federal Republic of Nigeria also provides for the powers of the Bureau and the conduct of public officers respectively.

Against the tidal wave of unethical behaviour or what the Transparency International (TI, 2012), describes as gargantuan vis-à-vis the domestic and global pressure on Nigeria to deliver on its development goals and dividends of democracy especially with the return to democratic rule since 1999, it therefore becomes imminent on the bureau to ensure that the actions of public officers particularly on acquisition of assets conform to the highest standards of public morality and accountability. This therefore places the Bureau in a strategic and vantage position considering their statutory responsibilities as defined by the Act that established it to promote

public ethics in democratic governance in Nigeria through the enforcement of the code of conduct for public officers. This section therefore attempts to assess the performance of the CCB in carrying out its constitutional responsibilities based on the following:

6.2:1 The primary purpose for the establishment of the Code of Conduct Bureau

The first objective of the study, which is to "ascertain the primary purpose for the establishment of the Code of Conduct Bureau", available data from both official documentary records of the Bureau and the results from in-depth interviews indicate that the Bureau was established for the primary purpose of promoting ethical behaviour in public service. The result from an In-depth interview with a Director at the national headquarters of the Bureau citing the aims and objectives of the Bureau was more illuminating:

> The Code of Conduct Bureau and Tribunal Act 2004 gave the aims and objectives to establish and maintain a high standard of public morality in the conduct of Government business and to ensure that the actions and behaviour of public officers conform to the highest standards of morality and accountability.

Stressing further on the reason for the establishment of the Bureau and Tribunal, a Registrar at the Code of Conduct Tribunal in one of the zonal offices added that:

> It is necessary to establish the CCB and CCT because of the size of the country and as such, one anti corruption agency cannot cover all. Secondly, the CCB and CCT deals strictly with public officers unlike the ICPC, EFCC, Police which have their jurisdiction spread to the public and society in general. It is a court/Tribunal responsible for trying offenders or officers who contravene the Code of conduct for public officers. It receives cases from the CCB which is more of an investigatory organizations and receiving complains and further liaise with other anti-corruption agency like ICPC, EFCC, etc.

In addition, an Assistant Chief Registrar of Code of Conduct Tribunal at the Headquarter, Abuja affirmed thus:

> The purpose for establishing CCB and CCT as focusing on civil/public servant who must conform to the code of ethics of public servant as enshrined in the code and constitution of the FRN.

From the official document of the Bureau examined, the CCB handbook (2010) also re-affirmed the purpose for the establishment of the Bureau thus:

> The Code of Conduct for public officers in Nigeria became necessary particularly when viewed against the backdrop of large scale fraud and corruption which has become prevalent in the civil/public service…It is therefore necessary for Nigerians to rid themselves of this cankerworm and to conscientize themselves towards acceptable behaviour.

Nwagwu, the former Vice president of Transparency in Nigeria and Chairman Joint Action Front FCT, in an interview described the purpose of the CCB thus: "CCB is ordinarily saddled with the responsibility among other things with having the public servants declare their assets and document this with the Bureau". In his own contribution, an officer with ACTU describes the purpose of CCB as supposed to see that whatever you have as civil or public servant is genuinely acquired so that if somebody is living above his income, the CCB will take him up. The North Central Coordinator of Transparency in Nigeria, in an interview gave an insightful description of the purpose of the CCB thus:

> The CCB is supposed to ensure that civil and public servants comply with all constitutional provisions on transparency. For example, he added, by law, all civil and public servants are supposed to declare their assets when they are coming and when they are going and so, supposed to see if there is consistency in their declarations by monitoring compliance with all laws pertaining to transparency of all civil servant.

In his own contribution, the Executive Director of Civil Society Legislative Advocacy Centre, in an interview opined that:

> The CCB and CCT are the only anticorruption agencies created by the law and are in the constitution to ensure public officers (elected or appointed) are supposed to be serving the public on trust, and they need to make sure that they

> declare their assets before coming, while in the office and within the period review the status of their declarations

In giving credence to the above remarks about the purpose for establishing the CCB, an officer with Civil Justice interviewed noted thus:

> It is an anticorruption agency of government that is set to profile the asset liabilities and resources of public office holders so as to put them on records and to also ensure that after sometimes, they are able to justify what comes after.

All the above responses alluded to the fact that unethical behaviour and practices in public service was to be taken seriously through constitutional means, the reason which led to the establishment of the CCB and generally acknowledged as such. Having established public awareness of the purpose for the establishment of the Bureau, it is necessarily important for us to assess the extent to which they have performed these functions as assigned to them by the Act that established them.

6.2:2 Total number of Assets Declarations Forms received by the CCB from public officers in accordance with the provision of the Act between 1999 and 2007.

The section here addresses the second objectives of the study (to ascertain how much of the Assets Declarations Forms did the CCB received from public officers in accordance with the provision of the Act between1999-2007). In order to ascertain numbers of asset declaration forms received by the Bureau, it is important to present the details in a tabular form.

Table 6.2:1 Statistical Data on General Administration of Assets Declaration Forms on Year by Year Basis from 1999-2007.

SN	Year	Nominal Roll	ADFs Issued	CADFs Returned	Acknowledgement Slips Distributed to Declarants	ADFs Issued not Returned
1	1999	80,985	80,985	61,540	61,540	19,445
2	2000	83,505	83,505	59,470	59,470	24,035
3	2001	282,175	282,175	125,538	30,137	156,637
4	2002	190,321	190,321	119,425	48,848	70,896
5	2003	190,654	121,039	76,263	8,672	44,776
6	2004	170,014	31,983	NA	NA	NA
7	2005	100,043	100,043	84,840	NA	15,203
8	2006	141,339	141,339	96,499	NA	44,840
9	2007	301,046	203,928	164,851	120,122	144,453
Total		1,235,318	1,235,318	788,426	328,789	520285

Source: Department of Assets Declaration Department, Code of Conduct Bureau, Abuja

Table 6.2:1 above reveals the aggregated data for each year for the period under investigation. The result shows the detailed number of Assets Declaration Forms (ADFs) issued and the number completed and submitted. For the purpose of answering the question of the number of ADFs received by the Bureau under the period under investigation, it is necessarily important to examine it in a disaggregated form by looking at it yearly. In the year1999 which is out point of

reference, out of the 80,985 ADFs issued to public office holders, 61,540 were returned as Completed Assets Declarations Forms (CADFs) which represent about represent 76% of the return rate. In the year 2000, out of the 83,505 ADFs issued to public officers, 59, 470 were returned as the CADFs representing 71%. The year2001 recorded the highest number of ADFs issued to public officers with about 282,175 but with a poor return rate of 125,538 representing 44%. Attempt was made to question the rationale behind this high rate of the issuance of the form and the response according to one of the officials was that by the year2001, democracy has began to take root and people became more enlightened and started getting used to democratic norms than before. However, by the year 2002, the number of ADFs issued dropped to 190,321 and a return rate of 119,425 which represent 63%. What is responsible for the drop according to a staff of the Bureau interviewed was that most of the public officers felt there was no need for that. When asked what effort was made by the Bureau to ensure 100% compliance, the officer interviewed responded that to the best of their ability and with the resources at their disposal, they tried but some public officers would not respond. Consequently and in line with our constitutional provisions, such cases are referred to the Code of Conduct Tribunal. The year 2003 had an appreciable records with121, 039 ADFs issued and 76,263 returned as CADFs. It is so amazing that the year 2004, only 31,983 ADFs were issued and there was no record of the number of ADFs returned. On the oscillating figure of the number of ADFs issued, the officer at the CCB interviewed informed us that each year, the number is expected to reduce as those that got the form the previous year may not need to get again. The inability of the Bureau to produce records for such period especially as it marked the first year of the second term of the government under investigation is an indication of laxity on the part of the Bureau. The year 2005, also marked another increase in the number of ADFs issued as 100,043 were issued and

84,840 returned making an 85% rate of return. In the year 2006,141,339 ADFs were issued and 96,499 were returned and in the year 2007, the last year in office for the government under investigation, 203,928 ADFs were issued and 164,851 were returned as CADFs. From all the years under study, there is a remarkable number of public officers who obtained the form and never returned them. On the aggregate for the period under study(1999-2007)The logical question that follows is that what happens to the remaining numbers not returned. The researcher attempted to know why and what effort was made by the bureau to ensure 100% compliance. In his response, one of the officers of the Bureau at the headquarters interviewed remarked thus:

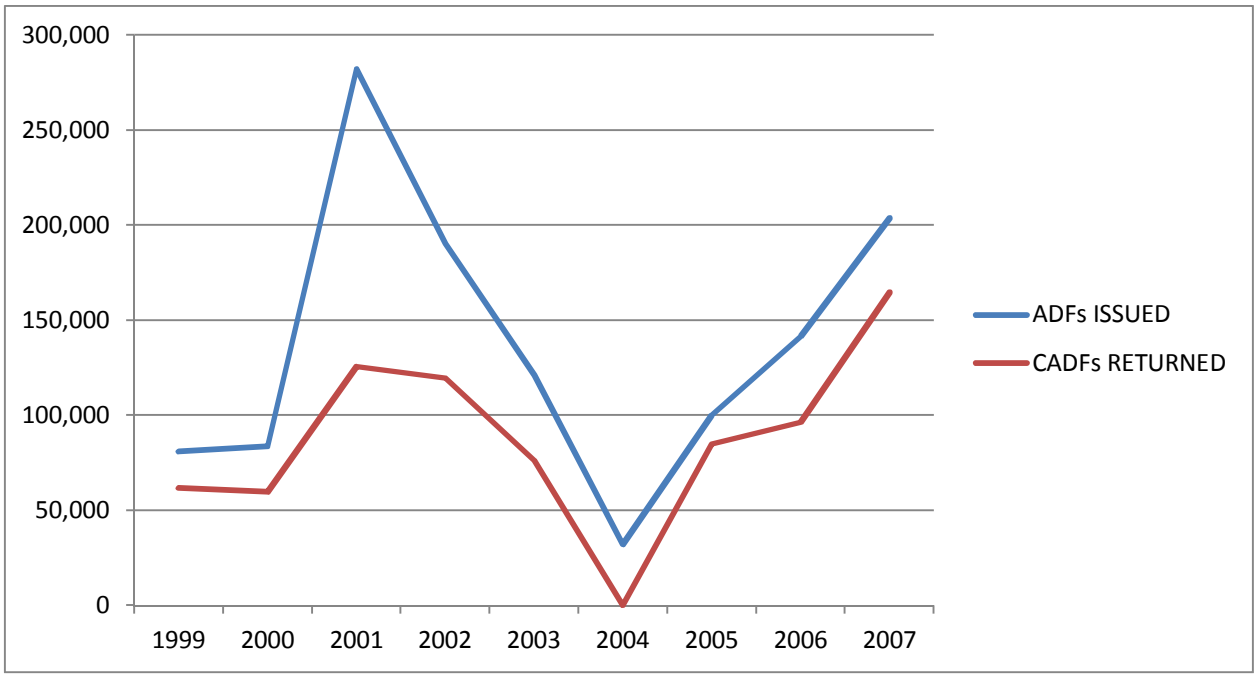
> With the return of democratic rule in 1999, after a prolonged military authoritarian rule, public officers within the category of the constitutional provisions never saw it as part of their constitutional responsibility to obtain and return the ADFs. Hence, the number we have. He also added that even the figure we got was a function of the campaign by the federal government against corrupt practices that informed that number. As such the number is quiet appreciable when you look at it from the angle of the long years of military rule and the few months into democratic rule. However, on the part of the CCB, we had to embark on campaign, retreat and workshop to sensitize public officers both at the state and federal levels on the constitutional imperative to obtaining this ADFs and the response has been very positive at least within the resources at our disposal. When you compare the resources we have at our disposal in terms of human and financial resources you would agree with me that we have tried.

The table above also shows the aggregate details across the period under investigation. The table reveals that out of the nominal roll (which refers to the number of public officers eligible for the ADFs, of 1,116,182 for the period under study, 1,026,418 ADFs were issued and the Bureau received 784,426 representing about76% of return which is quite appreciable and 520,285 ADFs were not returned.

The reason for the low turnout for the year 2001 and the consistent absence of 100% rate of return is not far from the reluctance and in some cases refusal of some public officers to submit their forms as some did not see it as part of their constitutional responsibility. We can therefore

conclude that from 1999-2007, based on the available records, there is an appreciable number of response from public officers and this is not unconnected with the programme of sensitization, retreat and conferences embarked upon by the bureau for enlightenment. Again, when this figure is juxtaposed with the nominal roll of public officers within the jurisdiction of the CCB, and side by side with the number of public officers that received the ADFs under the period of investigation(1999-2007), it becomes insignificant, especially, when it is established that the expected nominal roll is above 4,000,000 public office holders. However, figure presented can be represented in a graph below.

6.2:2 A Graphical Representation of the numbers of ADFs issued and the CADFs returned



Yearly Distribution of cases

*ADFs- Assets Declaration Forms * CADFs- Completed Assets Declaration Forms

From the graph 6.2:2 above, it is obvious that while the Number of Assets Declaration Forms issued reached its peak in 2001 with about 282,175 issued, the number returned had its peak in the year 2007 with 164,851 Completed Assets Declaration Forms (CADFs) returned. In other to justify reason for this appreciable number of response from public officers especially in the year 2007, Tuktur (2010:9, 15) has observed that:

> The Bureau introduced a Conference Verification System of authenticating the claims made by public officers in their declarations waiting to be verified. This has further raised awareness among public officers and as most of them continue to testify, the exercise is fast entrenching a culture of proper documentation by the declarants. On sensitization, the Bureau held a forum for Speakers and principal officers of State Houses of Assembly at the Le Meridien Hotel Abuja. The Bureau through the public enlightenment machinery sensitize the public on the need to recognize illicit enrichment and make well articulated complaints without necessarily waiting to see what officers declare to the Bureau, and this is yielding results.

Despite the above remark, the fact that the number of ADFs issued and the number returned is far less than the total number of the expected nominal roll is an indication that there is a high level of laxity and ineffectiveness on the part of the CCB.

6.2:3 The extent to which the CCB promote public ethics in Nigeria's democratic governance (1999-2007).

This section addresses objective 3 of the research which is (to ascertain the extent to which the Code of Conduct Bureau and Code of Conduct Tribunal have promoted public ethics in Nigeria's democratic governance 1999-2007). For us to be able to draw conclusion and make probable recommendations, this section presents the response of the respondents interviewed and corroborated with the documentary evidence examined on the general assessment of the performance of the CCB. However, it is expedient to establish whether the Code of Conduct Bureau has the legal and institutional framework or what structural-functionalist theorists referred to as functional prerequisites required for effective performance of the CCB.

In an interview with an officer from the Cleen Foundation, he described the performance of the Bureau as a smokescreen with too much bark and little bite. He conclude that if he is to rate the CCB on a scale of 1-10 in terms of performance; I will rate them 3 or 30%. In his own assessment of the CCB performance, an executive official of the Transparency in Nigeria and Chairman of the Joint Action Front, a Labour-Civil Society Coalition observed that to be honest, perhaps, it is just recently especially after the recommendations of Oresanya report that it should be merged with other anticorruption agencies that they started giving the impression of being alive. He further added that the case of the former Lagos state governor, Alhaji Bola Ahmed Tinubu is perhaps the only notable activities or actions that the CCB has taken. To corroborate this assertion, an officer with Anti-Corruption Transparency Unit (ACTU) remarked that the CCB is still struggling to find its feet in addressing the issues it was established to perform. In his own assessment, a principal officer in charge of the North Central of Transparency in Nigeria remarked thus:

> In a nutshell, the CCB leaves a lot to be desired. I am not satisfied with their performance for so many reasons. To a very large extent, either by design or default, they have lived up to expectation. For example, you don't get to hear much about them and even when you do, it is for wrong reasons. People have been arraigned at the CCT and even in doing so, it is selective. In a nutshell, it is not proactive. We have hundreds of thousands of civil and public officials that are supposed to comply with these laws but only very few of them get monitored and may be sanctioned. As a university teacher of over ten years, it is only last month (May) that they brought the Assets Declaration Forms. In summary, there are desirable agencies but have failed and the reasons for their failure are systemic, institutional and structural.

In giving credence to the above assessment, a senior officer of the Civil Society Legislative Advocacy Centre (CISLAC) Abuja observed thus.

> It is very glare that the CCB is battling with a lot of challenges ranging from capacity, to monitoring of public officers of up to one(1) million from civil servants to political appointees. They don't have the capacity to verify 10% of the number. Shortage of manpower resources to carry out the work. No well trained investigators to investigate the claims of public officers

In giving credence to the above assessment, a Human Right Activist interviewed observed thus:

> To be candid, if you are going to interview ten (10) Nigerians, hardly would one (1) tell that the CCB has actually performed its job and all the ten(10) will give you names of Nigerians who went into government poor but came out as a multibillionaire. This is to

> show you the existing gap between the activities of the CCB and the public perception of the performance of the Bureau. For me, if the Bureau has been dong its work, we don't need EFCC and ICPC. It is an agency that has not harnessed its potentials. It is an agency that is simply a waste. It is an agency that could achieve more but have not relatively achieve much. It is of no accomplishment as far as am concerned. They are not as popular as EFCC and ICPC simply because you only hear of CCB only as in giving out forms to either elected or appointed public office holders and afterwards, you don't see any serious efforts in terms of arresting those who have violated the law of that Bureau. And over the years, corruption has so much risen in the politics with elected and appointed public office holders amassing stupendous and scandalous wealth, buying and building houses, stealing money in foreign accounts, buying shares and gong scot free. All these things robs on the credibility and usefulness of the CCB. It is very bad that corruption has been going on unabated with public office holders who have never filled the CCB forms (ADFs) but never brought for trial before the Code of Conduct Tribunal. The CCB is ineffective, it is usually docile.

However, a Registrar at the Code of Conduct Tribunal in one of the North West states has this to say:

> No agency alone anywhere in the world can stamp out corruption at once. It is a process of development. Awareness and campaign started and became serious between 2006 to 2009. People have at least been made aware now that government has stood up against corruption and unethical practices. Government has gone to different part of the country with its institutions campaigning about corruption.

In addition, Tuktur(2010:21) further added that:

> The Bureau would give itself a pass mark particularly in promoting ethical conduct in government business. It has done this through Assets Declaration by public officers, Investigation of breaches to the code, and public enlightenment programmes, prudently utilizing the human and material resources available to it.

From the above, therefore, it appears clear that the respondents interviewed were in accord that the CCB has not performed up to expectation, despite awareness campaign and other efforts aimed at combating unethical practices in public office as the Bureau has not reduced unethical practice or behaviour in Nigeria. In trying to justify the basis for this assessment, some respondents revealed that the prevalence of the menace and the nature of arrest made were few and selective compared to the magnitude of unethical practices in Nigeria. More-so, the Transparency International (TI) (2010), ranking observed that Nigeria has slipped from a score

of 2.5 in 2009 ranked at 130th position to 2.4 in 2010 taking the 134th spot alongside countries like Sierra Leone, Togo, Ukraine and Zimbabwe(TI,2010).

The result generated and presented above has shown that a greater percentage of the respondents agreed that the CCB as an agent for promoting public ethics has performed below expectation with only a few proportions of the respondents indicating otherwise. The report from In-depth interview also corroborated this data. In light of the foregoing, the fact that public officers today unlike in the past sees Assets Declaration as a Constitutional provision to be complied with, with little or no compulsion is a proof of progress made by the Bureau through public enlightenment programmes, management retreat and inter-agency retreat. Today, more public officers have become aware to the extent that they come on their own to collect, complete and submit the Assets Declaration Forms as required.

6.2:4 Factors militating against the effective functions- performance of the CCB (1999-2007).

This section addresses the fifth objectives of the study (to identify the possible factors militating against the effective functions- performance of the CCB between 1999-2007). From the result generated, overwhelming majority of the respondents and the documentary records examined have identified the followings as factors militating against the effective performance of the CCB and CCT : Number and quality of manpower; Funding; Legal and Constitutional setback; Independence of the Bureau; Office Accommodation and Political will and commitment. The Secretary of the Bureau (2010), observes that there may be some constraints in the areas of logistics; like low and untimely funding, shortage of operation vehicles, inadequate office accommodation and office furniture, insufficient personnel, etc. An officer with Transparency in Nigeria and Chairman of the Joint Action Front, a Labour-Civil Society Coalition observed that "the general claim why the CCB has not been active was lack of funding but it is simply

lack of capacity, may be trained manpower as well because the task of the Bureau is very huge and requires training and retraining of personnel to be able to achieve the mandate.. generally, apart from lack of funding, it simply case of lack of capacity" In trying to identify the probable factors militating the effective performance of the CCB, a former Vice president of Transparency in Nigeria and Chairman of the Joint Action Front, a Labour-Civil Society Coalition observed that:

> The reason for their ineffectiveness is because there is no political will. He further added that the establishment of those institutions by themselves are very good but you could also establish those institutions and cripple them by political meddlesomeness, starving them of the needed resource to do their job and eventually with a corrupt judiciary, even when those institutions prosecutes culprits, it ends up in the red tape and bureaucratic bottleneck.

In another development, the Coordinator for North Central of Transparency in Nigeria opined that:

> The Act empowers them to take certain proactive measures like complying with the provisions of the Act but in terms of personnel and funding, may be they have deficiency. However, they should be collaboration with related agencies for effective performance. Their deficiency cannot be excused because they have a way out. He also added that government has not demonstrated enough will and commitment towards fighting unethical practices in Nigeria.

According to the Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) Abuja, in his assessment of the CCB remarked thus:

> Declarations of Assets are still with the custody of the CCB and the public do not have access for verification of the claim. Whatever they are given, he added, is about 10% of what is required for the job. No skilled staff to investigate the claims. No political will and commitment by government. Since the president refused to declare his assets, he is not leading by example and so, he cannot demonstrate the will and commitment to fight corruption. The agencies are starved of the fund to frustrate the effective performance of their functions.

In an interview with an executive officer of Cleen Foundation, he described the performance of the Bureau as a smokescreen with too much bark and little bite. The reasons he added is because we have not been able to manage and build a stronger, viable and independent institution that can stand on its own and fight corruption. A Human Rights Activist, in an attempt to explain why the CCB has been effective observed that:

> One of the problem is the absence of a popular celebrity figure to head it that will have the clout to attract attention from the society, National Assembly and will also appeal to Nigerians so that it will get all the necessary tools required. But as it is now, the wings of

> these anticorruption agencies have been clipped by political interest at the top. Under President Obasanjo (which is the focus of this study)it was a selective justice whereby those who are perceived as enemies of government were arrested and prosecuted. Under President Umaru Yar Adua, a cabal of people exists who simply looted the treasury with impunity; and under the present regime, no body knows about what he s doing about corruption. It is a free for all things. We can see that the ruling party has continuously and consistently shielded and protected corrupt office holders and also deny anti-corruption agencies the leverages to go after corrupt public officers. There is also this frustration whereby judicial processes have been influenced and most corrupt officers usually get out of it through the judiciary

In similar remark, one of the officers interviewed observed that between 1999-2007,

> The shine of the CCB was taken way by the EFCC because it was a personality cult and the personality leadership of EFCC drove it so strongly to the point that it was clear that EFCC was there. Nobody knew about CCB during the Obasanjo administration.

In the light of the foregoing, the Code of Conduct Bureau lacked in all ramifications what scholars of structural-functionalism describe as functional prerequisites and as such cannot perform their statutory functions effectively. That does not also means that the CCB should not be creative and proactive enough to make maximum use of the available resources and collaborate with other agencies where necessary for effective performance.. Constitutional provisions alone are not enough for effective performance but institutional framework, financial and human resources are required for institutions to function effectively.

Each of these factors would be specifically discussed to see the relevance of each to the effective performance of the CCB and CCT.

Number and Quality of Manpower/Training

Generally, adequate manpower entails staff strength, both in quantity and quality, where individual professionals who are employed to act as whistle-blowers or gatekeepers with respect to their assigned constitutional responsibilities perform their duties optimally. But where services provided are ineffective, inadequate and inefficient, it necessarily becomes to a large extent a manifestation of inadequacy with all its attendant consequences. Although, there are other material components like remuneration and educational qualification, for example, that ought to

boosts personnel productivity and efficiency apart from numerical strength; but viewing the fact that more than 50% of the Bureau staff are not graduates and the few graduates are of different disciplines, it is the quantity and quality of its personnel that becomes the next yardstick to measure their performance. For instance, record and efficient management of records is an invaluable asset for investigation, prosecution and policy utilization.

The Bureau, as the official record suggests, lacks appropriate record due to inadequate personnel, both in quantity and in quality. For example, even though available records have shown a huge number of corrupt complaints and petitions, and ADFs submitted, yet the report is devoid of any systematic accuracy. The report merely presented all the cases and actions of the Commission across the thirty six States of the federation, including Abuja, without any attempt to show which part of the country has the highest cases of corruption, or which institutions of government or public sector is more prone to corrupt practices by its officials and the category of public officers who were perceived to be perpetrators of these unethical practices have either been under represented or not investigated. The CCB official records also did not contain clearly definable types of unethical practices related cases treated; instead, the statistical record lumped all the offences together and treated them generally as corrupt and unethical practices, which proved problematic for any systematic analysis. Rather, the cases treated ranges from the inability of Public Officers to submit ADFs within the first three (3) months and other minor cases with major cases with great consequences ignored. The Bureau's official document on its activities merely presents a growing number of cases brought before it and those arising from failure to submit the ADFs, rather than the expected systematic data required for analysis and extent of prosecution. This problem, therefore, is largely hinged on the lack of adequate and required personnel needed to appropriately manage its database. Certainly, the record has shown that

inadequate personnel, both in quality and quantity, have negative impact on the performance of the Bureau.

Furthermore, in terms of staffing, the study has shown that the Bureau is grossly understaffed. With just a total of about 600 staff as at 2010; in some state with over 20 local government areas, there are about 17 staff of the Bureau including Storekeepers, Secretary, Drivers. Some State have 10 and other less than 10.This lack of manpower in terms of quantity and quality creates the lack of capacity to conduct successive verification, monitoring investigation, arraignment and even prosecution of cases submitted before it. No wonder there are prolonged delays in the prosecution of reported cases. This therefore buttressed the result of the finding that majority of the respondents indicated that the Bureau is grossly understaffed. In addition, the Federal Commissioner in charge of North Central opined that "the job is much but a few staff are out to handle it (Ekoja, 2011:58)".

On the training of staff, it is instructive to note that for any meaningful progress on the promotion of public ethics and the agency established to carry out this responsibility, it requires well-trained and efficient institution that enjoys not only the support of government but also the total support of the people it serves. Training, re-training and acquisition of requisite skills for intelligence gathering and investigative activities are key elements that determine performance. Basic training is necessary for an institution such as the CCB with specialists requiring more in-depth understanding of the job. But as the CCB record and data generated have shown, it places a high premium on development of human capital and as such offers training for its staff as expected which is designed to enhance their performance but the training is limited due to lack of funds. The detail is contained in the table below.

Table 6.2:4:1 showing the details of training for the period under investigation.

Year	Nature of Training	Number of Junior Staff	Number of Senior Staff	Total
1999	Local	NA	NA	NA
	Foreign	NA	NA	NA
2000	Local	NA	NA	NA
	Foreign	NA	NA	NA
2001	Local	52	164	216
	Foreign	Nil	6	6
2002	Local	6	79	85
	Foreign	Nil	Nil	0
2003	Local	94	163	257
	Foreign	Nil	Nil	0
2004	Local	200	263	463
	Foreign	Nil	6	6
2005	Local	148	216	364
	Foreign	Nil	9	9
2006	Local	292	450	742
	Foreign	Nil	19	19
2007	Local	NA	NA	NA
	Foreign	NA	NA	NA

Source: CCB Annual Report, 2005;2006;2007.

NA= Not Available

Even though the table did not did not specify the types, content and programme of events for the training, the data generated reveals that the courses ranges from for the junior staff Federal Training Centre Courses, Long Term Conversion courses for conversion training of Chief Driver, Mechanic, Plant Operator and Confidential Secretary, preparatory courses for staff writing and public enlightenment programme. On the part of the senior staff, the courses ranges from sensitization seminars on Anti-corruption Act, orientation on Asset Verification, orientation on new forms, preparatory courses for staff writing. It was only in 2004 that some courses that could enhance the effective performance of the Bureau were embarked upon. Courses such as: corruption and anti-corruption, international management courses and Anti corruption courses in Hong Kong who has the leading most effective anti-corruption institution in the world (Independent Commission Against Corruption (ICAC), Hong Kong). But when you compare the number of such courses and the number of CCB officers sent for the courses, it leaves a lot to be desired as it can hardly impact on the effective performance of the Bureau.

Funding of the Bureau

The failure or success of any organization is partly determined by the sufficient fund available to it. This also constitutes one of the functional prerequisites postulated by scholars of structural-functionalism for the effective performance of an institution. Investigation, monitoring, evaluation of claims and verification, legal fees, computer infrastructure and communication, research and other training needs, all require sufficient funding. But this is not to be, as available data reveals the contrary depicting lack of adequate funding. However it is expedient to add that in terms of funding, the Bureau was grossly underfunded as it solely relies on government for their funding which is not even adequate enough to meet with their operational cost. Funding may not be a sufficient factor but a fundamental one without which others factors are

incapacitated. According to a source that claimed anonymous at the national headquarter of the Bureau; the Bureau has about Fifty Million naira (50,000,000.000) to train officers in a year both at home and abroad. At the state level, a State Director reliably told us that his monthly imprest is One Hundred and Six thousand naira only N106, 000.00, with N 3000 for monthly Maintenance, N10,000 for monthly fuelling of Generator plant,N2000 for water, N 5000 for Telephone, N40,000 for Local Transport and Travel(LT&T) out of which the State Director is entitled to N16,000 and N24 000 for other staff in a state with over 20 local government areas. He concluded that Obasanjo's government which incidentally is the focus of our study seriously underfunded the Bureau. It was also observed from the field work that the principal officers of the Bureau either at the National Headquarters or state level don't have the required logistics to effectively carry out their constitutional matters. The Director, in charge of the Department of Asset Declaration which is the bedrock of the Bureau for instance, as at the time of this study had no official vehicle, so also other principal officers. In the light of the foregoing, we can say that considering the centrality of funding to the success of any organization, if it is not adequately provided, it has the tendency to frustrate the effort of the Bureau. Hence, the inefficiency the Bureau has experienced so far. Paradoxically, their counterpart at the EFCC as reported by its former chairman Nuhu Ribadu, who enjoyed tremendous financial support both at home and from international donor for example, appealed for adequate funding for the EFCC, in 2006 on the occasion of the 3rd National Seminar on Economic Crime attest to this fact. He captured the funding scenario this way:

> …we enjoy 100% support of Mr. President and his resolve to fight corruption. However, I wish to make passionate appeal here that funding is very critical to our success…. Example, Independent Commission Against Corruption (ICAC), Hong Kong, receives an average of about 3% of their total annual budget in 2004 for fighting corruption in Hong Kong with a population of about 6.9 million

> people. In the case of Nigeria, the EFCC/ICPC gets only 0.05% of federal budget (i.e about $10 million was promised) to fight corruption for a population of about 140 million people…. I wish to let you know that an average high profile case cost the Commission between 5 to 10 million naira to prosecute, and we have close to 1000 cases that we are handling currently (Ribadu, 2006: 20).

In another development, peter Langseth in Odekunle(2001:207) has observed that:

> Hong Kong is one of the existing success stories in terms of the fight against corruption. According to him, Hong Kong having fought corruption for 25 years, continues to allocate substantial financial and human resources in its efforts, spending U.S.$90 million in 1998 per year and employing 1,300 staff who have conducted 2,780 training sessions for the private and public sector. This he added, is probably more than what all 50 African countries spent fighting corruption in 1999.

The researcher tried unsuccessfully to get the Bureau's budgets from 1999- 2007 and the amount required to have an effective performance to further support the analysis. However, the budgets from 2000-2005 we got and used for projection from the Budget office revealed that the CCB lack adequate funding to a large extent. For instance, in the 2000 budget, which was the first year into the administration that claimed to be interested in fighting unethical practice to zero tolerance, it was discovered out of the period which the research covered that there was no single provision for legal fees apart from providing a meager amount of N139,.752,493,00. From the available budget provided, it was only the budget for 2003 and 2004 that gave a comprehensive description of the budget estimates. Others were so vague that could not provide a formidable platform for analysis. However, it gave the estimated budget which indicates that it was small compared to the enormous task of promoting public ethics in Nigeria's democratic governance. Though the officer declined in disclosing how much of funds the Bureau had received from the government, including how much is needed to function optimally, it is clear that the Bureau is underfunded as it solely relies on government for their funding which is not even adequate

enough to meet with their operational cost. Funding may not be a sufficient factor but a fundamental one without which others factors are incapacitated.

The Legal/Constitutional setback

Legal and constitutional setbacks have also been responsible for the non satisfactory perormance of the statutory functions of the Bureau. The former Chairman of the Tribunal, Justice Bashir Sambo (2005) in an interview criticised the National Assembly for its reluctance to amend section 3(C) to the Third Schedule of the Constitution, to enable members of the public gain access to assets declaration documents of the public officers. With this kind of situation, how then do members of the public verify claims in the asset declaration of the public office holders? How does the public cross-check to know if these public officers actually declared certain asset traced to them? The chairman further concludes that he suspects that they are reluctant to amend that provision because it may affect them. For instance, at the expiration of the emergency rule in Plateau state during the Governor Joshua Dariye's administration and following the campaign from the then presidency to stall the return of Governor Dariye, the Plateau State House of Assembly called on the Code of Conduct Bureau to publish the asset declaration document filed with it by prominent public office holders including President Obasanjo. The presidency quickly responded through the president's spokesman Chief Fani Kayode, who called a bluff and dared anyone interested in Obasanjo's asset declaration document to get it from the Bureau. The Punch as reported by Gbade (2005) took it upon itself and approached the Bureau requesting the Bureau to publish the president asset declaration document. But the Bureau declined, saying the request could not be honoured under any existing provision of the law. The then Overseer, Navy Capt Emmanuel Nsa (rtd), referred the reporter to Part 1, Section 3 (C),Third Schedule of the Constitution which requires the National Assembly to prescribe "terms and conditions" under

which the Bureau may oblige request by citizens for asset declaration document. The National Assembly could not or refused to prescribe such terms and conditions. This justified the lack of commitment and willingness on the part of leadership especially presidency at combating unethical practices in Nigeria. This explains the prevalence and persistence of these unethical practices. More so, the inability of the then National Assembly members to pass the Freedom Of Information bill also buttressed the above assertion thereby depriving Nigerians access to information that may help not only in exposing unethical practices but in promoting accountability and transparency in governance. Justice Sambo also faulted Section 174 (1) (C) of the Constitution which empowers the Attorney General of the Federation (AGF) to discontinue criminal proceedings in court against any person or group, without offering explanation for such discontinuation. He traced the difficulties in cases brought before the then Tribunal to the exercise of this power by office of the AGF which, according to him, had continued to withdraw cases pending before the Tribunal at will.

In addition, the 1999 Constitution contains several provisions to curb the abuse of power, combat corruption, and subject the government to accountability and transparency. However, it must be noted that some of the constitutional provisions have had the effect of protecting some public official from any civil proceedings or criminal prosecution relating to acts or practice of corruption. Most significant in this light is the immunity provisions of section 308 of the Constitution. Moreover, the Fundamental Rights provisions on due process and Fair Hearing have been sought to be employed by persons accused of corruption blanket or cover their actions, by claiming their constitutional right to remain silent and not to incriminate themselves, the effect of which imposes an almost impossible task for the Prosecution to discharge its burden of proving its case beyond reasonable doubt since the accused is presumed innocent

until the contrary is established in our adversary criminal justice system. The immunity clauses of section 308 of the Constitution that restricts the institution of civil or criminal proceedings against the President, or Vice-President, Governor or the Deputy Governor and all the public office holders covered under the code have been employed successfully against the Code of Conduct Tribunal. Apart from the immunity clauses, several other constitutional lapses exist to frustrate the activities of the Bureau.

Another problem associated with the legal and constitutional setback is the fact that right from the inception of the CCB up to the time of president Obasanjo's administration, the CCB Board had never been really constituted. The Bureau could not perform effectively after 22years of its establishment as Ekoja,(2011) has argued due to the fact that the Bureau was not backed up with a board to function. At inception in 1979, President Shagari sent names of proposed board members to the then National Assembly (NA) but the NA members were reluctant to approve the list before military struck in 1983. More-so, whereas one of the sections of the Constitution states that the 10 members to be appointed into CCB shall at the time of appointment must not be less than 50 years of age and subject to the provision of section 157 of this constitution shall vacate office on attaining the age of 70 years, this has not really been so. With the re-emergence of democratic rule in 1999, President Obasanjo did not initiate any process of constituting the board members because as one of the State Director interviewed opined, perhaps, he could not get 10 board members who would give him absolute loyalty. This was difficult to get and as such, he refused to constitute the board until he handed over power to President Yar Adua in 2007. The more problematic aspect of this he added, is the constitutional power vested on the president to appoint board member subject to the approval of the NA members. This continued until President Yar Adua assumed office in 2007, and recommended some names but could not

actualize it before his death. It was during the present government specifically April 30,2010 that in the history of the Bureau was for the first time properly constituted and inaugurated. It was after the inauguration that the commissioners met and launched the compilation of records.

On the Immunity Clause, it is part of the fundamental objectives and directive principle of State policy, Section 15(5) of the Constitution provides that, "the State shall seek to abolish all corrupt practices and abuse of power", however, agencies of government expected to perform this function, "abolish all corrupt practices and abuse of power" faces contradiction generated by the same Constitution. The high point of this contradiction is Section 308 of the Constitution, which grants immunity to some high profile public officeholders (the President, Vice President, Governors and Deputy Governors, for example). By this proviso, the affected officers are not to be legally liable for any criminal or civil offence(s) committed or deemed to have been committed by them, until after the expiration of their tenure. This provision itself negates the spirit of Section 15(5). Falana (2006) opines that immunity conferred on the heads of government from responsibility for criminal offences, including corruption committed by them while in office has exposed the war against corruption to ridicule before the generality of Nigerians.

Independence of the Bureau

On the independence of the Bureau, the Bureau had no operational bank account decades after its establishment. The Bureau is neither independent nor self accounting as they have to rely on the office of the Secretary to the Government of the Federation for funding. As such, it is more of an appendage of the executive arm. The lack of any form of independence has rendered the CCB totally irrelevant in the on-going anti corruption crusade. On this independence, one of the interviewee has observed that:

> You can't employ until you get a waiver from the Head of Service/SGF. If for instance, you retire today, you cannot get your benefit until you get a waiver from the Head of Service. So as an institution, we cannot employ and not even promote and discipline without approval from the Head of Service. So where is our independence as an institution?

In addition to the above, on the independence of the Bureau, it is stated in the "Frequently Asked Questions" the official document of the CCB that:

> Government does not interfere with the working of the Bureau, though financially, the Bureau is not independent. It goes through the normal process of budgetary allocation as most other agencies of government"

The lack of financial independence of the Bureau is enough factor to make it not to function well because it is tied to the apron string of the executive thereby confirming the Marxian political economy position of the state and its machineries serving the interest of the ruling class. In several countries, including Singapore, Hong Kong, Uganda, Argentina, and others, that have created anticorruption commissions or ethics offices expressly charged with the responsibility of following reports on corruption or reducing corruption through the requirement on the part of public officials to report their wealth and in other ways. To be effective, these offices have independence from the political establishment, ample resources, and personnel of the highest integrity. They also have the power to enforce penalties or, at least, have others, including the judiciary to enforce the penalties. Unfortunately, in some countries like Nigeria, these offices are required to report confidentially to the president or the prime minister of the country rather than, say, openly to the legislative body. This reduces their effectiveness and politicizes the process. In other countries, these commissions do not have the power to impose penalties and their reports may not have any following by other institutions. However, the lack of political will to combat corruption was manifested in the interference with the statutory functions of the anti-graft agencies by the Presidency. The judiciary did not help matters as cases alleging serious

corruption and other economic and financial crimes were allowed to drag on in courts indefinitely.

On office accommodation and logistics

Having a required office accommodation that is not only decent but is proportional to adequate facilities and equipment makes work a lot easier. But in the absence of an office of their own, the staff are exposed to attacks. The Bureau is supposed to be in a secured place or building of their own but available evidence from the data gathered and personal observation from the field has shown that no state or zonal office is occupying separate building but sharing offices at the Federal secretariat of each state. At the federal level, even though we gathered that the national headquarters' building is under construction, the Bureau is still occupying 5th Floor, Phase 1 of the federal secretariat complex Abuja after over four decades of its establishment. The nature of the job requires the office to be located separately but the fact is on the contrary and this is a clear demonstration of lack of commitment on the part of government to combating unethical practices in governance.

On the logistics, the Secretary, Code of Conduct Bureau observed thus:

> Logistics has been a major challenge considering the mobile nature of all our operations,(assets verification, investigation and public enlightenment).Today we cannot boast of a minimum of one operational vehicle in all the states where we have offices. After the monetization, the Bureau, like every other agency had a ceiling for number of vehicles in its pool. We were allocated only twenty (20) vehicles for the headquarters and thirty-six(36) state offices and FCT office. All efforts to get more allocation on this subhead to ensure a minimum of one vehicle per state, has not yielded fruitful results(2009:18).

In the light of the foregoing, it becomes apparent in line with the theoretical postulation of functionalism adopted in the study that institutions on their own cannot perform unless they have what they referred to as functional prerequisites which are very fundamental to the effective

performance of the institutions. Within the purview of this study, these essential requirements as identified and discussed above are fundamentally absent and where there are present, they are not adequate enough to enhance the performance of the CCB.

6.3 Functions-Performance Assessment of the Code of Conduct Tribunal (1999-2007).

It is instructive to note that even though it appears rational that the first step to take in dealing with a social phenomenon is to assess the instrumentality concerned and while recognizing the limitations of assessing a single or particular institution within a larger society, we contend that the Code of Conduct Tribunal is amenable to isolation for assessment with regard to its designated functions or mandates as outlined by the Act that established it. This analysis would therefore be based on its statutory responsibilities as outlined by the Act that established it.

6.3:1 The primary purpose for the establishment of the Code of Conduct Tribunal

On the mandate and primary purpose of the Code of Conduct Tribunal(CCT), one of the Registrar interviewed summarized it thus:

> Is a Court or Tribunal responsible for trying offenders or officers who contravene the Code of conduct for public officers. It receives cases from the CCB which is more of an investigatory organizations and receiving complains and further liaise with other anti-corruption agency like ICPC, EFCC, etc.

The Code of Conduct Tribunal was also established to treat cases of infringement or non compliance brought to it by the Code of Conduct Bureau. On the mandate of the CCT, the Fifth Schedule, Section 15 of the 1979 and the 1999 Constitution of the Federal Republic Nigeria and the Code of Conduct Bureau and Tribunal Act C15 provides for the establishment of the Code of Conduct Tribunal which shall consist of a chairman and two other persons. This Tribunal is empowered by section 18(2) to punish any public officer who contravenes any of the provision of the code. The punishment shall include any of the followings:

(i) Vacation of office or Seat in any legislative houses, as the case may be;

(ii) Disqualification of membership of a legislative house from the holding of any public office for a period not exceeding ten years; and

(iii) Seizure and forfeiture to the state of any property acquired in abuse or corruption of office.

6.3:2 How many complaints did the CCT receive about non-compliance with the provisions of the Act by public officers within the period under review and how many have been tried and convicted.

This section addresses the fifth objectives of the study (how many complaints did the CCT receive about non-compliance with the provisions of the Act by public officers within the period under review and how many have been tried and convicted.

In order to attempt an answer to this question, it is necessarily important to present the detailed statistics on the activities of the Tribunal in a tabular for proper analysis.

Table 6.3:2:1 Showing details of Cases Referred to CCT and the number Convicted

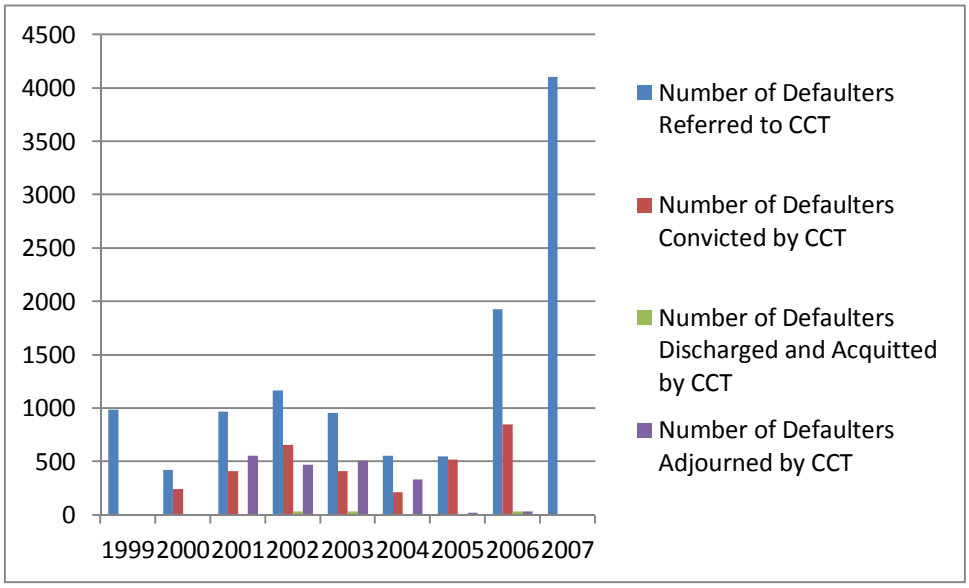
SN	Year	Number of Defaulters Referred to CCT	Number of Defaulters Convicted by CCT	Number of Defaulters Discharged and Acquitted by CCT	Number of Defaulters Adjourned by CCT
1	1999	988	NA	NA	NA
2	2000	424	243	NA	NA
3	2001	970	411	5	554
4	2002	1,165	659	35	471
5	2003	955	410	35	510
6	2004	557	212	11	334
7	2005	547	522	4	21
8	2006	1,927	847	31	35
9	2007	4,107	NA	NA	NA
Total		11,640	3,304	121	1,925

Source: Department of Assets Declaration Department, Code of Conduct Bureau, Abuja

In an attempt to answer the question of how many complaints did the CCT receive about non-compliance with the provisions of the Act by public officers within the period under review and how many have been tried and convicted within the period under review(1999-2007), the data

generated from documentary records of the CCB and CCT can be represented in the chart below with explanation following underneath.

Bar Chart 6.3:2:1 Aggregates of Cases Referred to CCT, Tried and Convicted



Yearly Distribution of cases

From the table and graph presented above, the data for the year 1999 and2000 were not comprehensive enough and all efforts made to recover those data failed as neither the CCB nor the CCT could provide the information. This again is an indication of laxity on the part of the institutions. To disaggregate the result, in the year 2001, the number of defaulters referred to the Code of Conduct Tribunal by the Code of Conduct Bureau is 970 out of which 411 were convicted by the Tribunal, 5 were discharged and acquitted but 554 representing 54% were discharged for lack of merit.. The year 2002, 1165 cases of defaulters were referred to the CCT out of which 659 representing about77%; 35 were discharged and acquitted and 471 were discharged on the ground of lack of merit. In the year 2003, 955 cases were referred to the Tribunal and 410 were convicted, 35 were discharged and acquitted and 510 cases were

discharged on the ground of lack of merit. In 2004, 557 defaulters were referred to the Tribunal, 212 were convicted,11 were discharged and acquitted and 334 cases were struck out for lack of evidence. In the year 2005, of the 547 cases referred to the Tribunal,522 representing 95% were convicted and only a paltry 4 were discharged and acquitted and 21 were struck out for lack of merit. The year 2006 recorded the highest number of defaulters referred to the Tribunal with a number of 1165 for 2002 and with highest number of defaulters convicted 659(77%). And 1,927 for 2006 and 847 were convicted. But the fact that 411(40%) defaulters were convicted for various offences and categories of civil and public servants is an indication of fair performance. On the aggregate, in a situation where more than half of the cases referred to the Tribunal were thrown out for lack of merit, it implies that the Tribunal are either not properly equipped with the required functional prerequisites for effective performance. In addition, the study was able to establish the fact most of the cases struck out were either because the CCB could not provide evidence to challenge the claims as they claimed there was no adequate logistic to verify and monitor the claim or the prosecutor and the counsel of the accused are superior, more experienced and have adequate evidence to vitiate the claim established their clients. However, the table below shows the names of high profile cases referred to the Tribunal even though the cases were struck out for one reason or the other.

Table 6.3:2:2 list of high profile public officers referred to the CCT

SN	NAME	STATE
1	DR ORJI UZO KALU	ABIA
2	MR GEORGE AKUME	BENUE
3	MR JAMES IBORI	DELTA
4	CHIEF LUCKY IGBINEDION	EDO
5	MR CHIMAROKE NNAMANI	ENUGU
6	ALHAJI SAMINU TURAKI	JIGAWA
7	ALHAJ ABUBAKAR AUDU	KOGI
8	ALHAJI ABDULLAHI ADAMU	NASARAWA
9	MR JOSHUA DARIYE	PLATEAU
10	MR JOLLY NYAME	TARABA
11	ALHAJI AHMED SANI YERIMA	ZAMFARA

Source: Field work 2011

In addition, from table 6.3:2:1 above, it is obvious that the total number of cases referred to the Code of Conduct Tribunal on the aggregate for the period under investigation(1999-2007) is 11,640 out of which 3,304 defaulters were convicted and more than half of the cases were thrown out for lack of merit. It implies that the Bureau lacked the required skillful investigators and prosecutors to establish a case and follow it up to logical conclusion. This data is a clear indictment on the ineffectiveness and inefficiency of the Tribunal. With greater proportion of

cases discharged, adjourned or discontinued for lack of merit, we can say that the CCT has neither been effective and efficient in combating unethical behaviour nor has it made appreciable progress in promoting public ethics in Nigeria's democratic governance. In addition, the number of cases discontinued for lack of merit also implies that the quality of investigation by the Bureau and Tribunal were either faulty or not properly done. This ineffectiveness therefore justifies the claim by functionalist scholars that in event of ineffectiveness, it will lead to the dysfunction of the entire system as is seen in the prevalence and persistence of this phenomenon despite the existence of these institutions. This result also gives credence to a similar study conducted by the UNDP Public Service in Africa in 2001. In that study specifically on the Code of Conduct Bureau and Tribunal, it was reported that "most of the cases referred to the Tribunal were struck out for lack merit"(UNDP.2001:69).After nearly a decade after this study, the result still reveals the same thing. However, even though the number of cases tried and convicted from the data generated are quite less when compared to the prevalence, the magnitude and the devastating damage it has done to the socio-economic lives of Nigeria, the fact that some cases were tried and convicted is an indication of a good sign of progress.

6.3:3 The extent to which the CCT promote public ethics in Nigeria's democratic governance (1999-2007).

This section attempt to assess the performance of the Code of Conduct Tribunal in terms of to what extent has it promotes public ethics in Nigeria's democratic governance (1999-2007). In the light of its statutory functions which is empowered by section 18(2) to punish any public officer who contravenes any of the provision of the code and the punishment shall include any of the followings: Vacation of office or Seat in any legislative houses, as the case may be; disqualification of membership of a legislative house from the holding of any public office for a period not exceeding ten years; and, Seizure and forfeiture to the state of any property acquired

in abuse or corruption of office. When you place these punishments against the available data, it becomes easy to see the ineffectiveness of the CCT as no defaulters has been reported or documented to have either vacated his or her seat on the ground of being convicted by the Tribunal or forfeited his or her properties unlawfully acquired to the state on the ground of being found guilty. In a similar report in a study conducted by the UNDP (2001), the study has shown that there has been no known case of any officer that has been indicted publicly by the Tribunal. Part of the reason as one of the interviewee had observed is because of interference which does not allow them to do their job. He further added that in the case of Tinubu, the information we gathered revealed that the President ordered for the discontinuation of the case. The report from the IDI also corroborated this data where one of the Registrar interviewed at the Code of Conduct Tribunal affirmed when asked how many public officers have lost their position or forfeited properties on the ground of abuse of office afffrmed that:

> I cannot remember any at the moment. The closest is that of Alameisiagha DSP. And in his case, the Attorney General intervened because the same case was instituted against him and he was punished. So he intervened to avoid double jeopardy. Forfeiture of assets is just but one of the several punishments. But to the best of my knowledge, a few number of people have been convicted with such. We have options of Fine or they vacate. So, most of them have paid the options of Fine.

Perhaps, if the assertion by the interviewee above is anything to go by, we can deduce that one of the reasons why the respondents are not aware of any officer vacating or forfeiting properties acquired in abuse of office is because they opted for the fine. But when juxtaposed with the mandate of the Tribunal, it becomes very difficult to situate where fines comes in as part of the punishment for offenders. However, respondents have generally and remarkably shown their dissatisfaction with the Tribunal's performance in terms of seizure and forfeiture of properties

acquired in abuse of office by public officers. An officer of the Cleen Foundation interviewed rightly remarked:

> Even the existence of the CCT is still something that very few people have knowledge about much less of the number of persons they have tried or convicted for not complying with the provisions of the law. There are still a lot to be done to give teeth to the provision so that they can bite. For now Nigerians and the public at large have not seen much of their impact from these quarters.

In his own contribution, an informant from the Transparency in Nigeria and Chairman of Joint Action Front, a Labour –Civil Society Coalition in an interview observed that apart from the dramatized case of Alhaji Bola Ahmed Tinubu, and the threat of mergence, beyond that I have not heard if they have proscribed and convicted any. In his own assessment, the Coordinator of Transparency in Nigeria, in one of the Northern zone Central in an interview remarked that:

> Very few cases have been tried and they are instances where political influence even the process where certain people are being arraigned because they have fallen out of favour from the ruling class. No ruling party members have been arraigned at the Tribunal. The Tribunal is selective, lethargic and not serious. In terms of output and conviction, it has not convicted an appreciable number of officers and that is not to say they are no grave violations of the Code of Conduct Acts. He attributed the reason for this poor performance to the following. Legal framework which have been deliberately subordinated to the whims and caprices of the Attorney General of the Federation (AGF). They (CCB and CCT) can hardly arraign anybody without the permission of the AGF and those who are involved belong to the same ruling members of the political class. His office is used to sabotage the prosecutorial process of the case. He conclude that they are other anti corruption legislation that has made them not to be independent

However, for instance, one of the Registrars at the Code of Conduct Tribunal has this to say on the performance assessment of the Tribunal:

> From where the CCT wants to be, we are not there yet, because of funding; and immunity clause which should not apply to CCT. Simplify the process a little so that we would not be equated with criminal court and in order to avoid all the unnecessary proceedings. The Tribunal was not meant to be legal at the initial stage until recently, when the National Judicial Council proposed that judges be appointed as the chairman. Furthermore, a lot of these responsibilities lie on the Bureau who needs adequate manpower to carry out their responsibility. There is a

> clause in the law establishing the Bureau that when case is instituted against any officer and the officer in writings agree to return such illegally acquired properties, the case will die there and then. With this the Bureau can quench a lot of cases.

In the light of the foregoing, it becomes very glaring that the dysfunctional state of the Nigerian system despite the existence of the CCT is an indication of its ineffectiveness and there is need to establish what are the factors militating its effective performance.

6.3:4 Factors militating against the effective functions- performance of the CCT (1999-2007).

This section addresses the fifth objectives of the study (to identify the possible factors militating against the effective functions- performance of the CCT (1999-2007). From the result generated, most of the respondents interviewed and the documentary records examined have shown that the followings are the factors militating against the effective performance of the CCB and CCT : Number and quality of manpower; Legal and Constitutional setback; Independence of the Tribunal; and Political will and commitment. Each of these factors would be specifically discussed to see the relevance of each to the effective performance of the CCT.

The Legal and Constitutional setback

Legal and constitutional setbacks have been identified as factors responsible for the non satisfactory performance of the statutory functions of the Tribunal. The former Chairman of the Tribunal, Justice Bashir Sambo (2005) in an interview faulted Section 174 (1) (C) of the Constitution which empowers the Attorney General of the Federation (AGF) to discontinue criminal proceedings in court against any person or group, without offering explanation for such discontinuation. He traced the difficulties in cases brought before the then Tribunal to the exercise of this power by office of the AGF which, according to him, had continued to withdraw cases pending before the Tribunal at will.

Another challenge closely related to the legal problem that has affected the effective performance of the CCT is the administrative procedures followed before a public employee is punished for acts of corruption which is too slow and cumbersome. Often, legal, political, or administrative impediments prevent the full or quick application of the penalties. Due process and the need to provide incontrovertible evidence are major hurdles.

Falana (2006) opines that immunity conferred on the heads of government from responsibility for criminal offences, including corruption committed by them while in office has exposed the war against corruption to ridicule before the generality of Nigerians. Explaining the impact of this constitutional lacuna on the CCT, one of the Registrar at the CCT elaborated on this with practical experiences. He noted that some former governors who were supposed to be tried while in office but were not because of the immunity clause that restrained the Tribunal from trying them. But the attempts to do so were dismissed by Federal High Court on the ground that they were entitled to immunity from criminal prosecution by virtue of Section 308 of the Constitution. Specifically, he stated:

> We face daily challenges of the constitutional immunity by not being able to promptly bring to book some corrupt suspects, especially serving governors. We are all very familiar with the fact that justice delayed is justice denied. Giving the accused too much gap before trial may allow them to temper evidence required for successful prosecution, thereby causing obstruction of justice….

This implies that the immunity clause is, to a large extent, hampering the CCT from seeking prompt justice against some persons alleged for unethical practices. The constitutional clause is yet an indication that crime involving people of respectability is often treated with leniency rather than the seriousness it deserves. By exempting this category of persons from prosecution,

Falana (2006: 36) enthuses that "they allow themselves to be treated as sacred cows… with the impression that they are above the law".

Independence of the Bureau

On the independence of the Tribunal, the Tribunal had no operational bank account decades after its establishment. The Tribunal is neither independent nor self accounting as it has to rely on the office of the Secretary to the Government of the Federation for funding. This, the then chairman said has made it impossible for members of the public to know that the Tribunal has the status of a Federal Court and that its decision could only be challenged in the Court of Appeal.

Logistics Problem

The Code of Conduct Tribunal has little or none of this office accommodation and logistic problem as they have their national headquarters built for them and they have their offices separate at state or zonal offices. That does not however means the Tribunal is devoid of logistic problem. For instance, the Tribunal is just one located at the federal capital Abuja with two Judges for the whole country and move from zone to zone to dispense judgment as the case may be. This may therefore be responsible for the prolonged delay in dispensing judgment at the Tribunal.

Funding

As for the CCT, even though all effort to get the budget failed, we gathered from the registrar through the IDI that the Tribunal enjoys adequate financial support from both the federal government and states where their zonal offices are located.

6.4 Discussion of Research Findings

The Code of Conduct Bureau and Code of Conduct Tribunal are products of circumstances borne out of the unfortunate prevalence and persistence of unethical practices in Nigeria's public service; over the years, it became necessary to monitor excessive and irregular accumulation of wealth. The extent to which they are able to perform their roles effectively formed the basis of this study. The discussion of the findings will be done against the backdrop of their mandate. The mandate of the Bureau "is to establish a high standard of morality in government business and ensuring that the actions and behaviour of public officers conform to the highest standards of public morality and accountability, raises the ethical threshold in government business"(Tuktur,2009:1). As the foremost constitutional institutional arrangement put in place to fight unethical practices, it intervenes at the levels of prevention, punishment and promotion of values. It is within these contexts and on the premises of their mandates that the discussions would be done.

In agreement to the theoretical postulations of the structural-functional theory adopted in this work, it is instructive to ask whether the CCB and CCT possess what these scholars referred to as functional prerequisites that are required for the effective performance of the institutions. Within the context of this study, the requirement include legal or constitutional provisions, manpower (in terms of quantity and quality of personnel), adequate funding, etc. in the light of this, apart from the legal or constitutional provision that is adequate for the performance of these institutions, other prerequisites are not adequate enough for the effective performance of the CCB and CCT.

This section is designed to answer two fundamental questions that constitute the thrust of this study. The questions are: i) To what extent has the study achieved the objectives of the research? Ii) To what extent has the assumptions stated provided guidance and direction towards the realization of the above objectives; and to what extent have the findings confirmed the assumptions or otherwise. In order to provide answers to the above questions objectively and empirically, attempt would be made to explore the extent to which the stated objectives have been realized.

The thrust of or the problematic of this study is to assess the extent to which the CCB and CCT have promoted public ethics in Nigeria's democratic governance 1999-2007. In order to answer this question, the Secretary of the Bureau in a self assessment of their performance observed thus:

> If the truth must be told, to the generality of Nigerians, the Bureau remained the same old Code of Conduct that only bark but could not bite. The Bureau has been receiving a lot of petitions and complaints from the public on public officers who abuse their offices or breach the provisions of Code of Conduct for public officers, to date, not a single individual was successfully prosecuted. We have been conducting verification of assets declared by public officers, to date not a single public officers was referred to the Code of Conduct Tribunal that he or she has accumulated assets far and above his legitimate income. No assets of a single officer was seized and returned back to the state because it was acquired illegitimately. Not a single officer was removed from office or banned from holding any office as a result of action taken to the Tribunal by the Code of Conduct Bureau.
>
> The caliber of officers the Bureau is referring to the Code of Conduct Tribunal for failure to declare their assets; the majority remained **the poor and miserable primary and secondary teachers and their likes;** the lower strata of public officers. The top echelon; the Directors, Permanent Secretaries, Commissioners, Governors, Ministers, Senators, etc remained too big for the Bureau to be brought before the Code of Conduct Tribunal. Even the completion of the Asset Declaration Form, the bureau could not impose the correct way of doing it after 22 years of its existence. Forms that are improperly and/or inadequately completed are received by the Receiving Officers even though it is gloriously clear that the information provided are false, unverifiable or could not be of any use for the purpose it is intended (Alhassan Ibrahim, the Secretary CCB,2011:4).

The assertion above corroborates the data generated from respondents interviewed which when disaggregated and analysed reveals that an overwhelming majority of the respondents generally agreed that the CCB and CCT as agencies for promoting public ethics has performed below expectation. However, some respondents also disagreed and indicated that the CCB and CCT have performed up to expectation. Dr Ademola Adebo, a Federal Commissioner of the Bureau in an interview observed thus:

> It would be wrong to think that the CCB was not working because it was not publicizing its work while investigating, explaining that only those with suspicious declarations are invited for questioning. He further added that those that we have investigated, those we have verified know that the CCB is working. Because we are on the prevention side, we don't make a noise. We are supposed to quietly monitor your income and assets to guide against illicit enrichment, conflict of interest and to prevent you from having foreign account where you can launder money. He urged Nigerians to cooperate with the Bureau in discharging their duties and to report suspected public officials in the interest of the nation (Adebo cited in Friday, 2011:13).

On the objective of finding out the primary reason for the establishment of the CCB and CCT, it is partly answered as shown in the data generated. The findings revealed that the CCB and CCT were established by the Murtala/Obasanjo military regime as amended and re-enacted in the 1999 Constitution and the Code of Conduct Bureau and Tribunal Act C15 LFN 2004 to maintain a high standard of public morality in the conduct of Government business and to ensure that the actions and behaviour of public officers conform to the highest standards of morality and accountability. To corroborate the position from the documentary records of the CCB and CCT examined, the Bureau and Tribunal were established to promote public ethics in public service. Response from the Interviewees also revealed that against the pervasive corruption and unethical practices in Nigeria, the CCB was established to essentially focus on public servants who must

conform to the Code of ethics of public servants as enshrined in the Code and Constitution of the Federal Republic of Nigeria (FRN). According to Hamman of the CCT,

> The establishment of the Bureau is necessary because, considering the size of the country, one anti-corruption agency cannot cover all. Secondly, the CCB and CCT deals strictly with public officers while the other such as EFCC, ICPC the Police have their jurisdiction spread to the public and society in general.

It is apparent from the disaggregated data generated from the official documents of the CCB and CCT and wielded together with the In-depth interview, that the CCB and CCT were established to promote ethical behaviour in Nigeria public service.

The second objective of the study which is to ascertain the number of the Assets Declarations Forms the CCB received from public officers in accordance with the provision of the Act between 1999-2007, Table 6.2:1 as presented above shows the aggregate details across the period under investigation. The table reveals that out of the nominal roll (which refers to the number of public officers eligible for the Assets Declaration Forms (ADFs), of 1,116,182 for the period under study, 1,026,418 ADFs were issued and the Bureau received 784,426 representing about76% of return which is quite appreciable and 520,285 ADFs were not returned. This therefore shows that during the period under study, public office holders who are by the Code of Conduct Acts eligible to obtain the ADFs form responded appreciably. But on the contrary, Ademola Adebo, a Federal Commissioner of the Bureau revealed that, there are over four(4) million public officers in Nigeria that are placed under the mandate of the Code of Conduct Bureau by the constitution and that the CCB has the constitutional powers to monitor the income and assets of these over four million public officials. When you juxtapose the number of ADFs issued and received with the number of people who are by law supposed to be administered the ADFs, the number of CADFs becomes insignificant.

On the other objective of ascertaining the number of cases referred to the Code of Conduct Tribunal ant the extent of trials and conviction, the study found out that on the aggregate for the period

under investigation (1999-2007), 11,640 cases were referred to the Tribunal out of which 3,304 were convicted and more than half of the cases were struck out for lack of merit. The inability of the Bureau to produce concrete evidence to buttress the claims and the inability of the Legal Counsel of the Tribunal to challenge the more experienced, exposed and well paid private Defence Counsel of the defaulters were among other things responsible for striking out most of the cases referred to the Tribunal. Hence, the ineffective performance of the CCT which also confirmed the assertion of the functionalist scholars who argued that in a situation where the required prerequisites for effective performance are not there, there bound to be ineffectiveness which will ultimately lead to the dysfunctioning of the system as experienced in Nigeria today.

6.5 Relating Research Assumptions To Research Findings

This section is designed to relate the assumptions of the study to the research findings from the disaggregated data generated from both the official documents of the CCB and CCT and the in-depth interviews conducted. As such, each of the assumptions would be identified and juxtaposed with the findings in order to refute or validate the assumptions.

The first assumptions of the study states that the Bureau and Tribunal as institutions for promoting public ethics in democratic governance in Nigeria have not performed effectively from1999-2007. This assumption has been validated with an overwhelming proportion of respondents interviewed and corroborated with the official documents of the CCB and CCT examined which indicates that the Bureau and Tribunal have performed below expectation. In addition, the prevalence of unethical practices in Nigeria to the extent that in 2012, Transparency International described the corruption rate in Nigeria as gargantuan which is also an indication that the CCB and CCT have not been effective and efficient in the performance of their statutory responsibilities.

On the second assumption that states that lack of commitment and political will on the part of political leadership has affected the effective performance of the Bureau and Tribunal's functions, available data generated from respondent disaggregated and interwoven with the in-depth interview have shown that majority of the respondents have indicated that political leadership has not demonstrated adequate will and enough commitment required to stem the tide of unethical practices in Nigeria's democratic governance between 1999-2007.It is instructive to note that the success and failure of any government anti-corruption institutions depends to a large extent on the willingness of the government to fight unethical practices. While everyone including the perpetrators and victims of these unethical practices seem to agree that unethical practice is evil that must be confronted and eradicated, not everyone does what has to be done to eradicate the phenomenon of unethical practices in Nigeria.

This lack of political will and commitment is demonstrated in government's inability to constitute the board of the Bureau after over two decades of its existence. Furthermore, looking at the period under investigation (1999-2007), the then president Obasanjo also demonstrated lack of commitment and will towards promoting public ethics and fighting unethical practices as the administration refused to constitute the board members required for the Bureau to function effectively throughout the period (1999-2007) of his administration. The then National Assembly did not help matter as all effort towards passing the Freedom of Information Bill (FIB) which was supposed to allow any Nigerian who desire to know and probe into the claim of public officers in the Asset Declaration Forms (ADFs) submitted to the Bureau failed. To corroborate this position, the Chairman of the Tribunal further added that one of the obstacles to tackling corruption in Nigeria is the unwillingness (or inability) of the ruling elite to take enabling actions by enacting appropriate and adequate laws against corruption as well as laws to enhance their

enforcement. It is against the backdrop of the absence of institutional framework and the reluctance of leadership that incapacitated the CCB and CCT to function effectively. This lack of commitment and political will on the part of political leadership as demonstrated in the underfunding, under staffing and delay or reluctant to constitute the Board of the Bureau not only justified but validates the second assumption of the study. In addition to this, the recent response of President Goodluck Ebele Jonathan in a media chat of Sunday June 24,2012 that he did not give a "damn" to the persistent calls across the country for the declaration of his assets also justified the assumption that successive governments over the years have not demonstrated enough will and commitment to combating unethical practice in Nigeria. The President reiterated that his refusal to publicly declare his assets is a matter of principle. Little did the president realize that if he had declared his assets publicly, it would have positively affected the country since it has the tendency of a domino effect across board especially in consideration of the need to promote ethical practices in our corrupt-ridden public institutions. Even though the President acknowledged that if he makes his assets public, the action will compel other public officers to do so, but because he is not committed to fighting unethical practices he did not give it a damn to declare his assets. This portends a great danger for ethical behaviour of public officers in Nigeria and the fight against unethical practices.

The third assumption states that poor funding and lack of adequate manpower have affected the performance of the Bureau and Tribunal's functions. Available data generated from the official document of the Bureau and Tribunal examined and interwoven with the in-depth interviews have validated the assumption. It is apparent from the data that majority of the respondents interviewed had indicated that the Bureau and Tribunal are understaffed. It is instructive to note that the failure or success of any organization particularly anti corruption

agency is partly determined by the sufficient fund available to it and the quantity and quality of its staffing. From the available records particularly the Bureau's budget (See Appendix for the detail) the budget allocated to the bureau is grossly inadequate when compared to the enormity and processes involved in carrying out their responsibilities.

On the fourth and last assumption that poor publicity has affected the performance of the activities of the Bureau, the data collected has shown that there is actually poor publicity of the activities of the bureau with majority of the respondents indicating that Nigerians are not aware of the activities of the Bureau. When probed further it was gathered that this problem is derived from the problem of funding. Public enlightenment which constitutes an essential function of the Bureau could not be adequately carried out due to poor funding resulting to poor publicity. The data corroborate the assertion by a Director in one of the States Bureau who observed thus:

> Well, I am not completely surprised if most people, especially among some segments of our population are said not to be aware of the existence and activities of the Bureau. The reason for me is not far-fetched. The Bureau deals with top most individuals that are well placed in public offices as stipulated by the law and not just every individual. This is coupled with poor publicity of our activities which will almost certainly limit the popularity of our activities..

This data therefore, validate the assumption that poor publicity affected the performance of the Bureau.

CHAPTER SEVEN

SUMMARY, DISCUSSION, CONCLUSION AND RECOMMENDATIONS

7.1 Summary and Discussion of Major Findings

The nascent constitutional democratic government grapples with the problems of governance and how to effectively combat and prevent corruption which has been ingrained in the Nigerian value system and psyche as the "Nigerian Factor" has constituted a major setback to the realization of the goals of the nation's development. It is against this background that this study assessed the role performance of the Bureau and Tribunal in terms of promoting ethical behaviour in public service in Nigeria's democratic governance between1999-2007.

Through the instrumentalities of In-depth interviews and examination of official documents, the study based on objective number one found out that majority of the respondents and interwoven with the official document examined had indicated that the CCB and CCT were established for the primary purpose of promoting ethical behaviour in public service. This also corroborates Onoge, who as far back as 1981, asserts that the most important evidence of state concern with corruption is the institutionalization of a code of conduct for public officers as stated in the Fifth Schedule of the 1979 constitution. Stressing on the reason for the establishment of institutions for combating unethical practices, Dunmoye (2001), has observed that:

> Three main methods have been used to sensitize the public especially civil servants and political office holders, on the need to ensure probity, accountability, impartiality, hard work, transparency in the public service. These methods he added serve particular purposes, which are prevention, management, deterrence and enforcement. There have been public enlightenment campaigns that carry out traditional core values of probity and selfless service in the public life. This was specifically carried out with the launching of the Alhaji Shehu Shagari led ethical re-orientation revolution. War Against Indiscipline (WAI) was also instituted by General

> Buhari regime to enforce discipline. As for the management of the conduct of civil and public servants, the Code of Conduct Bureau and Tribunal was enshrined in the fifth Schedule of the 1979 Constitution to promote ethical practices.

In the light of the foregoing, it can be observed that in a real and deliberate sense, the instituting of the Code of Conduct Bureau and Code of Conduct Tribunal as important instruments for monitoring the actions and behaviour of public officers to ensure they conform to the highest standard of morality and public accountability is a conscious effort at closing the moral gap between the public realm and the private realm in Nigeria. The historic mandate of the Code of Conduct Bureau as stated in Part 1, Section 14(1) of the Fifth Schedule of the 1979 Constitution has remained the same in the 1999 Constitution as it was in the beginning. The imposition of a duty to observe and conform with a Code of Conduct by Public Officers is an innovation of the 1979 Constitution, that is retained by the 1999 Constitution. The Code of Conduct prohibited, ***inter alia***, the giving and receiving of bribes, abuse of office by Public Officers, the operation of private foreign accounts, as well as conflict of personal interest with official duties on the part of Public Officers.

On the second objectives of the research which is to ascertain how much of the Assets Declaration Forms did the CCB received from public officers in accordance with the provision of the Act between 1999-2007, the study has shown that of the four million public office holders that are within the purview of the Code of Conduct Bureau as mandated by the Act, a little above one million received the ADFs but less than a million submitted the Completed Assets Declaration Forms (CADFs). The number is quiet small when compared to the prevalence of unethical practice in the country and this may be attributed largely to the poor publicity of the activities of the Code of Conduct Bureau and the absence or inadequacies of what functionalist referred to as functional prerequisites..

The third objectives of the study focuses on ascertaining how many complaints did the CCT receive about non compliance with the provisions of the Act and how many have been tried and convicted in order to ensure compliance between 1999-2007; it is clear from the data (see table above) that the total number of cases referred to the Code of Conduct Tribunal on the aggregate for the period under investigation (1999-2007) is 11,640 out of which 3,304 defaulters were convicted and more than half of the cases were thrown out for lack of merit. It implies that the Bureau and Tribunal lacked the required skillful investigators and prosecutors to establish a case and follow it up to logical conclusion. This data is a clear indictment on the performance of the Code of Conduct Tribunal. With greater proportion of cases discharged, adjourned or discontinued for lack of merit, we can say that the CCT has not made appreciable progress in promoting public ethics in Nigeria's democratic governance for the period under study. In addition, the number of cases discontinued for lack of merit also implies that the quality of investigation by the Bureau and Tribunal were either faulty or not properly done perhaps due to lack of competent professional investigators. However, even though the number of cases tried and convicted from the data generated from the official document is quite less when compared to the prevalence of phenomenon under investigation, the fact that some cases were tried and convicted is an indication of progress made by CCB and CCT.

On the fourth objective which is to ascertain what is the public assessment of the functions-performance of the CCB and CCT from 1999-2007; available data from both the official document of the Bureau and Tribunal and corroborated with the in-depth interviews have shown that overwhelming majority had indicated that the CCB and CCT have performed below expectation. In order to ascertain the level of progress made by the Bureau and Tribunal in carrying out their constitutional responsibilities, official document of the CCB and Tribunal were

examined and the study found out that they have not made appreciable progress compared to the devastating and pervasive nature of the problem under investigation. With a larger proportion of cases discharged, adjourned or discontinued for lack of merit, we can say that the CCB and CCT have neither been effective and efficient in combating unethical behaviour nor have they made appreciable impacts in promoting public ethics in Nigeria's democratic governance from 1999-2007. However, the fact that today, public office holders have realized that t is their constitutional responsibility to obtain and fill ADFs and on their own go to the Bureau's office to obtain the ADFs and submitted same after it has been completed is an indication that they are making progress. This justified by the number of ADFs issued for the period under investigation and the number of completed forms returned. Out of the a little above one million ADFs issued, over seven hundred thousands were completed and returned. With this over 70% return rate, the Bureau has to a large extent made progress. On the part of the Tribunal, that some public office holders were arraigned and prosecuted even though very few were convicted is also a plus.

On the last objective which is to identify probable factors militating against these institutions towards actualizing their mandates and offer possible recommendations that will lead to the effectiveness of the Bureau and Tribunal in the discharge of their constitutional responsibilities, the study identified factors ranging from constitutional and legal setback, independence of the institutions, lack of adequate funding and under staffing, lack of political will and commitment on the part of political leadership towards fighting unethical practices and logistic and accommodation factors are among others responsible for the ineffective performance of the CCB and CCT.

On the whole, the study shows that the Code of Conduct Bureau and Code of Condcut Tribunal have performed below expectation especially in their main constitutional responsibility

of promoting public ethics in Nigeria's democratic governance between 1999-2007. However the public display of some high profile public officers, organization of retreat, workshops and that some were tried and convicted is an indication of some degree of progress. In addition to the above, the fact that today, public officers go to the Bureau's office to collect Assets Declaration Forms (ADFs) fill and submit the completed forms means there is an appreciable progress. Factors such as number and quality of manpower, Funding, Legal and Constitutional setback, Independence of the Bureau, Office Accommodation and logistics and Political will and commitment on the part of political leadership were identified as factors militating against effective performance of the Bureau and Tribunal constitutional responsibilities. To make the CCB and CCT more result-oriented and effective, several suggestions in the form of recommendations were made, among which were calls for adequate and qualitative manpower, adequate funding, removal of the immunity clause from the Constitution and providing necessary legal framework for the independence of the CCB and political leadership at all levels should demonstrate political will and commitment to fighting unethical practices in Nigeria.

7.2 Conclusion

In the light of the foregoing, the study can conclude that even though the data generated and analysed has indicated that the Code of Conduct Bureau and Code of Conduct Tribunal have not performed their responsibility of promoting public ethics in Nigeria's democratic governance (1999-2007) up to the desired expectation, they have tried when you look at their performance in terms of arraignment of high profile cases of previous Governors, Ministers and Director General and top government functionaries compared to the institutional framework and what scholars of structural-functionalism describes as functional prerequisites which is expected to enhance their performance. Theoretically therefore, within the postulations of structural-functional analysis,

these institutions were not provided with the requisite conditions such as legal or constitutional framework, financial, human manpower in terms of quantity and quality and the independence required for effective performance. However, the public show of the public office holders who defaulted and the fact that some were detained even if the case against them were later thrown out for lack of merit is a plus to the Bureau and Tribunal. That they were able to organize retreat for public officers at different cadre and embarked on public enlightenment programmes and workshops are indications of progress, in addition to the cases that were tried and convicted even though the numbers are insignificant. Above all, that public officer come on their own to collect, complete and submit ADFs with little or no compulsion is a sign of success that must be acknowledged and strengthened.

One of the striking revelations of this work is that the prevalent value system of public acceptance of corruption as a way of life compounds the problem of combating corruption and unethical practices in Nigeria. People adore instead of abhorring unethical practices.

Finally, the activities of CCB and CCT in promoting public ethics in Nigeria particularly for the period under investigation can be described essentially as a discursive activity, as a sort of benign inquiry, a friendly dialogue between accounting and accountable parties.

It is important to note that the conclusion of this work also corroborates the findings of some studied conducted some years ago. For instance, in the final report of Nigeria Governance and Corruption Survey Study conducted in 2003, public opinion of people was sampled on the usefulness of institutions established to combat corruption in Nigeria. On a general assessment of all anticorruption commission, 19.9% of the sampled population had indicated that these anticorruption institutions had not helped at all while 13.9 of the respondents indicated otherwise that they have helped a lot in combating corruption. Specifically on the Code of Conduct Bureau,

16.1% of the respondents consented that the Code of Conduct Bureau has not helped at all while 7.8% agreed that the CCB has helped a lot. Their result should therefore further guide efforts at targeting institutions such as the CCB and CCT as part of institutional frameworks for promoting public ethics and possibly conduct an empirical study on the reasons for their ineffectiveness in performing their statutory responsibilities.

7.4 Recommendations

Unethical behaviour is a complex phenomenon that no country is free of it; as such, it is almost never explained by a single cause. If it were, the solution would be simple. Of the many factors that influence it, some can be changed more easily than others. However, because of the complexity of the phenomenon, the fight against unethical practices must be pursued on many fronts. It is a fight that cannot be won in months or even in a few years. But the greatest mistake that can be made is to rely on a strategy that depends excessively on actions in a single area, such as increasing the salaries of the public sector employees, or increasing penalties, or creating an anticorruption office, and then to expect quick results. Any realistic strategy must start with an explicit recognition that there exists a tidal wave of unethical practices and that it can be combated. It is based on the findings of this study that the following recommendations are made, with the view that if considered, it would make the Bureau more effective in the discharge of its constitutional responsibilities**.** Considering the fact that recommendations must be based on the research findings, the study will begin its recommendations from theoretical framework of the study.

1. Theoretically, it has been shown from existing literature reviewed and the choice of Structural-functionalism as our theoretical frame of analysis which constitute our point of departure from other work has shown that for any institutions of government

to perform been part of the entire social and political system, it must provide what these scholars refer to as functional prerequisites. It is in the strength of this theory that an institution can be isolated based on the functions assigned to it for assessment but this assessment must be predicated on whether such institutions have what it takes to perform effectively. Within this context, the CCB and CCT were found wanting in terms of the required conditions for effective performance.

Other specific recommendations include:

2. There is need for political leadership at all levels to not only provide leadership by example but must demonstrate adequate will and commitment required for combating unethical practice. When the top political leaders do not provide the right example, either because they engage in acts of corruption or, as is more often the case, because they condone such acts on the part of relatives, friends, or political associates, it cannot be expected that the employees in the public administration will behave differently. The same argument applies within particular institutions because these institutions cannot be expected to be corruption free if their heads do not provide the best examples of honesty. In any case any serious strategy to attempt to reduce unethical practices will need action on at least honest and visible commitment by the leadership to the fight against corruption, for which the leadership must show zero tolerance; policy changes that reduce the demand for corruption by scaling down regulations and other policies such as tax incentives, and by making those that are retained as transparent and as nondiscretionary as possible; reducing the supply of corruption by increasing public sector wages, increasing incentives toward honest behaviour, and instituting effective controls and penalties on the public servants; and

somehow solving the problem of the financing of political parties. Societies can do much to reduce the intensity of corruption, but no single action will achieve more than a limited improvement-and some of the necessary actions may require major changes in existing policies.

3. There is still much to be done to reduce the temptation of unethical behaviour and practice in Nigeria considering the devastating effect it has posed on the socio-economic lives of Nigerians It is instructive to note that a holistic approach is required to eliminate this social menace which lies at the overhauling of the existing social and economic order that seems to have generated this protracted menace in the country. This implies that to combat unethical practice in Nigeria and by implication, place the CCB and CCT in a position to perform their mandate effectively, it is imperative to address all the identifiable problems affecting the effective performance of the Bureau and Tribunal.

4. On the constitutional provision for the appointment of Chairman and Board members which if not until 2007 when the process was initiated and later constituted in 2010,this study recommends that the Constitution be amended and that power withdrawn from the president and National Assembly and be given to the National Judicial Council (NJC) in collaboration with other bodies such as National Union of Journalists(NUJ), Nigerian Labour Congress(NLC) Nigerian Bar Association(NBA) but subject to the final approval of the president. This is predicated on the position of one of the interviewee that the constitutional powers of the president to appoint the chairman and board members may also affects the efficiency and effectiveness of the bureau. The age bracket should also be relaxed to 45 instead of restricting it to

50 years. In addition to this, the CCB and CCT should be transferred from the executive to judiciary for effective monitoring, evaluation of performance and easy dispense of cases

5. Furthermore, to be effective, the Bureau must be independent from the political establishment especially the presidency, ample resources and personnel of highest integrity. They must also have the power to enforce penalties, or at least have others, including the judiciary, enforce penalties.

6. Freedom of information as an entrenched legal norm to include (a) the requirement of open declaration of assets by all public officers, on entering and leaving office and irrespective of rank or status. Such asset declaration should be available for verification and monitoring by any interested citizen; (b) open and uninhibited access by interested citizens to all documents relating to, or dealing with any aspect of public policy. (This will mean, effectively, the death of all secrecy laws, behind which past and present governments have covered up all manner of crimes against the people).
7. In addition, the fight against corruption and unethical behaviour cannot be carried out without adequate funding and adequate manpower with requisite skills required for the job. Therefore, there should be direct and adequate budgetary allocation from the Federation Account to the Bureau to enable it cope with its operational costs, both in terms of acquiring office accommodation, recruitment of personnel and other logistics.
8. Finally, Public enlightenment campaign against unethical practices through the mass media (electronic and print) should be re-

invigorated. The enlightenment should be translated in all dialects and distributed to all schools, churches, mosque and other associations. This is to include live coverage of the trial of all the accused persons and by so doing; it will not only expose the culprits but serve as deterrent.

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APPENDIX 1 : LIST OF PEOPLE INTERVIEWED WITH DATE

SN	NAME	ORGANIZATION	RANK / POSITION	DATE/PLACE OF INTERVIEW
1	Comrade Shehu Sani	Civil Rights Progress of Nigeria	President	2/6/12 Kaduna
2	Ahmed Suleiman	Anticorruption Revolution(ANCHOR)	National Deputy Chairman	2/6/12 Kaduna
3	Chinedum Nwagum	Cleen Foundation	Executive Secretary	19/6/12 Abuja
4	Ezenwa Nwagu	Transparency in Nigeria/Joint Action Front- Labour-Civil Coalition	Former Vice President and Chairman of Joint Action Front	18/6/12 Abuja
5	Dr Bukar Malgwi	Anti-Corruption Transparency Unit (ACTU)	Chairman	7/6/12 Zaria
6	Abubakar Umar Kari	Transparency in Nigeria	Coordinator, North Central	18/6/12 Abuja
7	Auwal Musa Rafsanjani	Civil Society Legislative Advocacy Centre (CISLAC)	Executive Director	18/6/12 Abuja
8	Bar Emmanuel Hamman	Code of Conduct Tribunal	Registrar	14/7/11 Kaduna
9	Bar Abdulmalik Shaibu	Code of Conduct Tribunal	Asst Chef Registrar	6/10/11 Abuja
10	Auwal Usman Yakassai	Code of Conduct Bureau	State Director	29/9/11
11	Alhassan Ibrahim	Code of Conduct Bureau	Secretary	7/10/11
12	Mrs A.F.Kolawole	Code of Conduct Bureau	Director, Research & Development	7/10/11
13	Ayokunle Olufemi	Centre for Peace-building and Socio-Economic Resources Development CepSERD)	Executive Director	19/6/12 Abuja
14	Salisu Garba Abubakar	Code of Conduct Bureau	Deputy Director, Assets Declaration Department	19/6/12 Abuja
15	Alhaji A. Badisha	Code of Conduct Tribunal	Director	8/10/11

APPENDIX 2: THE INTERVIEW GUIDE FOR STAFF OF CCB and CCT

Introduction

Sir/Madam, I am a Post-Graduate student of the Department of Political Science, Ahmadu Bello University, Zaria. I am undertaking a research aimed at assessing the performance of the Code of Conduct Bureau and Code of Conduct Tribunal (CCB/CCT in promoting Public Ethics in Nigeria's democratic governance between 1999-2007. The purpose of the research is to collect a comprehensive data on the performance of the Bureau, and it is a part of Ph.D dissertation.

Please, respond sincerely as whatever information received from you will be strictly used for academic purpose. Your response will be treated in total confidence.

Thank you.

1. Please, can you introduce yourself by name, qualification, position held, and the name of your organization?
2. Sir, considering the fact that there are other existing institutions in Nigeria designed to promote public ethics, why the establishment of the CCB/CCT? Is it not a duplication of the existing ones?
3. Tell us about the activities of the CCB/CCT, what has it been able to do so far?
4. Sir, how many Asset Declaration Forms have you distributed and collected from public officers between 1999-2007?

5. Sir, how many of these forms complied with the requirements of the Act establishing the Bureau?

6. Sir, did you receive any complaints about non-compliance or breach of this Act between 1999-2007 and how many of such have you referred to the Tribunal?

7. How many public officers who contravened any provisions of the Bureau have been

punished by the Tribunal between 1999-2007?

8. How many public officers have lost their public office or forfeited any properties to the state on the ground of unethical practices?

9. Sir, you will also agree that several reported cases of corruption have not been taken or formally charged to the Tribunal for the alleged offences. What is responsible for this?

10. Sir, from all indications, you will agree that the CCB/T has not achieved so much since inception. What do you think is responsible for this development?

11. Sir, we are aware that the CCB/T is appropriately receiving the attention of the government in all its ramifications. I am sure, the Bureau is not having difficulties in terms of funding, office accommodation, training, staff strength, etc. What is your response to that?

12. What are the other likely problems hampering the smooth and effective functioning of the Bureau you would like to share with us?

13. Please sir, can you react to the assertion of your organization being referred to as a toothless bulldog?

14. In your own opinion, can you suggest possible ways of making the CCB/T to be more effective and efficient in the discharge of its statutory functions?

APPENDIX 3: THE INTERVIEW GUIDE FOR SPECIALIZED GROUPS (CSO)

Introduction

Sir/Madam, I am a Post-Graduate student of the Department of Political Science, Ahmadu Bello University, Zaria. I am undertaking a research aimed at assessing the performance of the Code of Conduct Bureau and Code of Conduct Tribunal (CCB/CCT in promoting Public Ethics in Nigeria's democratic governance between 1999-2007. The purpose of the research is to collect a comprehensive data on the performance of the Bureau, and it is a part of Ph.D dissertation.

Please, respond sincerely as whatever information received from you will be strictly used for academic purpose. Your response will be treated in total confidence.

Thank you.

1. Please, can you introduce yourself by name, qualification, position held, and the name of your organization?
2. Sir, considering the fact that there are other existing institutions in Nigeria designed to promote public ethics, why the establishment of the CCB and CCT? Is it not a duplication of the existing ones?
3. To the best of your knowledge, tell us about the activities of the CCB and CCT, what has it been able to do so far?

4. . Are you aware of how many public officers that have lost their public office or forfeited any properties to the state on the ground of unethical practices?

5. Sir, you will also agree that several reported cases of corruption have not been taken or formally charged to the Tribunal for the alleged offences. What is responsible for this?

6. . Sir, from all indications, you will agree that the CCB and CCT has not achieved so much since inception. What do you think is responsible for this development?

7. What is your general assessment of the performance of the CCB and CCT from 1999-2007?

8. In your own opinion, do you think political leadership in Nigeria has demonstrated enough political will and commitment to the fight against unethical practices?

9. To the best of your knowledge, what are the likely problems hampering the smooth and effective functioning of the Bureau and Tribunal you would like to share with us?

10. In your own opinion, can you suggest possible ways of making the CCB and CCT to be more effective and efficient in the discharge of its statutory functions?

APPENDIX 4 BUDGET ALLOCATIONS FOR CCB 2000-2005