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**POLITICS OF ANTI-CORRUPTION CRUSADE IN NIGERIA:
A FIRST TERM PERFORMANCE ASSESSMENT OF THE
ECONOMIC AND FINANCIAL CRIMES COMMISSION**

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ABSTRACT

The Economic and Financial Crimes Commission (E. F. C. C) evokes a canvass of rainbow perceptions among Nigerians: it means different things to different people. While to some it is the much-awaited and celebrated nemesis of scammers, fraudsters and corrupt public officials, to others it is a veritable tool for waging private wars against real and imagined enemies and political opponents of government. This paper is based on an empirical study of the performance of the E.F.C.C between 2003 (when it began operation) and 2006 (the end of its first term). The paper critically X-rays the philosophy, structure, functions and performance of the controversial corruption - busting body in the face of the varied opinions Nigerians hold about its activities.

INTRODUCTION

International concerns about financial crimes type of corrupt behaviour emerged in the 1980s as a result of the prevalence of transnational spread and perceived impacts on same on society (Shehu, 2006). The apparent realization of the unwholesome effects of corruption triggered a wave of actions against the phenomenon globally by national governments and international organizations.

It is the consensus of scholars and lay analysts alike that corruption, nay financial crimes, has debilitating and devastating effects on the economy, the society and the polity (Asobie, 2001); it retards economic growth and sustainable development, distorts prices and undermines legal and judicial system (U.N.D.P, 2004).

Johnson et al (2001) blamed corruption for slow economic growth, reduced investment, incipient poverty, ineffective institutions, limited social interactions, weak rule of law, low popular participation in politics, weak protection of civil liberties, low or poor educational attainment, etc The point is stretched further by Odekunle (2001) who observes:

The combined costs and consequences of corruption and indiscipline entail enormous damage to the country's corporate life and existence economically, politically, socially and ethnically: the incalculable loss of government revenue; the undermining of the economy, of national development, and of political stability; the debilitating effects on public service efficiency, effectiveness, worker morale and productivity; the perversion and frustration of development objectives and people's legitimate aspirations; the straining of our national image and the soiling of our reputation all over the world; and even the question of viability of Nigeria as a corporate entity.

Admittedly however, successive Nigerian governments since independence have at various times attempted to combat and curtail the corruption menace. Various anti-graft laws have been passed and campaigns launched: the Public Officers (Investigation of Asset) Decree 5 of 1966; the Corrupt Practices Decree, 1975; the Code of Conduct Bureau and Tribunal, 1979; the Ethical Revolution, 1982; War Against Indiscipline, 1984; the Advance Fee Fraud Act, 1996, etc.

The latest official onslaught against corruption began with the return of the country to civil rule, at a period Nigeria had become infamous as a foremost corrupt nation and a safe haven of perpetrators of economic and financial crimes. Accordingly, the new government pledged that "... corruption, the greatest bane of our society, will be tackled head on at all levels" (Obasanjo, 1999). In 2000 the Independent Corrupt Practices Commission (I.C.P.C.) was created, while the E.F.C.C Act came into effect in 2002.

This paper, relying solely on secondary data (published documents, official reports and related works), appraises the performance of the E.F.C.C. during the first term (2002-2006) of its activities.

CONCEPTUAL FRAMEWORK

The paradox of corruption, says Gaji (2006), is that most people have an idea of what it is, but do not necessarily share the same idea. Scanlon (2004) aptly captures the dilemma faced in conceptualizing corruption: Perhaps the concept of corruption is rather like the nature and appearance of the elephant; everyone knows (or think they know). What it is, but may find it difficult to define with precision. Historically, corruption is said to derive its source from the Latin word "*corruptum*" i. e., "intent to destroy".

To Otite (1986) corruption is the perversion of integrity or state of affairs through bribery, favour, or moral depravity. However, the report and proceedings of the International Development Committee, House of Commons (England, Vol.1) is of the opinion that the definition of corruption “goes beyond just bribery and extortion, to include absenteeism, diversion of resources, nepotism, influence peddling, fraud and embezzlement.” Similarly, the committee (appointed by the Indian government in 1962) to review the problem of corruption in India extends the frontiers of the frontiers of corruption to include “the improper or selfish exercise of power and influence attached to a public life”.

Corruption has also been viewed (by Gaji, 2006) in two broad dimensions: generic and official corruption. Generically corruption is said to be any dishonest or immoral behaviour that is at variance with generally accepted standards. For official corruption, two definitions are employed. The first is by the Vision 2010 Committee which defines corruption as “all those improper activities or transactions that are aimed at changing the normal course of events, judgment and trust”. The second, by Nwankwo (1997), thus:

Corruption occurs when a person in a position of trust and responsibility, in defiance of prescribed norms, suppresses the rule to advance a personal interest(s) at the expense of public interest.

In a similar vein, Stuart (1984) categorized corruption into two broad types: grand and petty corruption. The former is one undertaken by state officials, often in collusion with large foreign companies to secure the goods and services of high value, which would not have been chosen in a fair competition and proper prioritization. Petty corruption, on the other hand, involves small scale individuals’ activities of officials such as policemen, customs officers, store staff, account staff, schedule officers in ministries, magistrates, etc.

Kittgard (in Gaji, 2006), in describing corruption, adopted a formula:

$$C = D + M - A$$

i.e., corruption is the imposition of discretionary power monopolized and exercised by a single individual without recourse to accountability.

Based on the foregoing, it is clear that corruption manifests in various forms. Mabogunje (2001) lists the items on the corruption variables to include bribery, nepotism, fraud, embezzlement, extortion, gratification, inflation of contacts, over-invoicing, payment for work or supplies not satisfactorily done or not done at all, abuse of tender process, awarding contact to self, proxies or favoured ones; falsification and suppression of records, perversion of justice by law

enforcement or judicial officer, smuggling, racketeering, adulteration of market goods, falsification of measures, abuse of office, rigging of census, electoral malpractice, false political promises, holding on to power against the will of the people, examination malpractices, tax evasion, drug trafficking, money laundering, false declaration of assets, illegal acquisition of public property, misuse of public funds and deliberate delay of official files and other official transactions.

However, this paper restricts itself to “financial crimes” type of corruption, defined by the EFCC Act of 2002 as:

Non-violent criminal and illicit activity committed with the objective of earning wealth, either individually or in group or organized manner.... These include any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery looting and any form of corrupt practices, illegal arms deals, smuggling, human trafficking and child labour, oil bunkering, foreign exchange malpractice, including countries counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc

In the context of this study, corruption connotes any act or omission which infringes on socially accepted notion of good conduct done deliberately for private gain.

The work is predicated on the Marxist paradigm, particularly the thesis by neo-marxists such as Poulantza (1974) and Darhendorff (1979) that the state can exist independent of its principal actors and can sometimes move against erring individual bourgeois elements in order to protect the main capitalist social order. Outfits such as the E.F.C.C are created to whip errant members of the capitalist class and others into line, while serving as a bulwark to the system itself. Therefore, overall, they function to preserve and protect the capitalist social order.

THE EFCC: A PERFORMANCE EVALUATION

The EFCC was established in 2002 by an Act of the National Assembly (amended in 2004 and 2007) to enforce all laws pertaining to the prevention and control of economic and financial crimes.

As set out under Part II (Functions of the Commission) in the enabling Act, the EFCC is saddled with the following responsibilities (among others):

- i) The investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of

- negotiable instruments, computer credit card fraud, contract scam, e.t.c;
- ii) The coordination and enforcement of all economic and financial crimes laws and enforcement functions;
 - iii) The adoption of measures to identify, trace, freeze, confiscate or seize products derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds; and
 - iv) Collection of all reports relating to suspicious financial transactions, and disseminate to all relevant government agencies.

The evaluation undertaken here basically covers the functions stated above.

As observed by Danko (2007), from a modest beginning in May, 2003, the EFCC has developed into a potent crime-busting outfit, spanning various sector of life and traversing all the nooks and crannies of Nigeria. It first operated from Abuja, Lagos and Port-Harcourt. According to Ribadu (2006) the EFCC deliberately elected to start in style-with a "big bang" hence they went after big names in advanced fee fraud (419) circles and immediately hauled up such kingpins as Fred Ajudua, Ade Bendel and Emmanuel Nwude .they also went after Amaka Anajemba in Enugu and Morris Ibekwe, then a member of the House of Representatives. Within a short period, the EFCC managed to spend its dragnet to all the corners or the federation, as its searchlight beams on individuals and groups from within and without.

As attested to by Greenfield (2009) and Odunfa (2006), the EFCC managed to make Nigeria less attractive as a safe haven for the dirty money, decisively tackled 419 and recovered fleeced loot. For example, the Brazilian bank scam, arguably the world's biggest 419 heist ever, where some fraudsters defrauded the bank to the tune of 242 million U.S dollars. Also, the EFCC in conjunction with law enforcement agencies from the U.S, Canada, Europe, e.t.c., created the " Operation Global Con" leading to the uncovering of schemes such as 419, foreign currency trading, bogus lottery, prize and sweep takes schemes, bogus offers of " pre-approval" credit card protection, tax fraud schemes, e.t.c. In all, more than 2.8 million victims and over a billion U.S dollars losses were involved (Danko, 2007)

Also, from a zero position pre-2004, the number of money laundering convictions in 2005 stood at 34. The number of investigated money laundering cases for the same period was 20. As at October

2006, 96 money laundering investigations were ongoing (Ribadu, 2006).

In 2005, the Nigerian Financial Intelligence Unit (N.F.I.U) was created. It is an autonomous body within the EFCC whose main job is collection, analysis and dissemination of information on money laundering and terrorism financing. All financial and related institutions are required by law to furnish the N.F.I.U with details of their financial transactions. According to Ribadu (2006), in 2005 alone, the N.F.I.U received a total of 1,500 suspicious transactions reports (STRs) and over 3.5 million criminal transaction reports (CTRs). In the same vein, according to Okaoru (in **Zero Tolerance**, 2006) in just one year, the N.F.I.U records show referrals (by the reporting entities, other law enforcement agencies and regulatory bodies) as follows: S.T.Rs: EFCC-10, POLICE -23, NDLEA-3, ICPC-4, FL.R.S-2

In a similar vein, rendition by reporting entities was on the increase with banks accounting for 1,495 STRs and 3,521 CTRs. The figures for the first quarter of 2006 were 38 STRs and 818 CTRs. Bureau de change operators, community banks and security operators, community banks and security operators, which hitherto never made any rendition, now responded with 7,321, 51 and 500 CTRs respectively during the first quarter of 2006.

The EFCC is also credited with cracking some high-profile graft cases, such as the one involving former Inspector General of Police, Tafa Balogun (17.6 billion naira worth of cash and assets were recovered and conviction obtained), Governor D.S.P Alameseigha of Bayelsa (50 billion naira involved, also conviction secured), Governor Joshua Dariye of Plateau (indicted for stealing 1.6 billion naira from the State Ecological Fund) and Governor Ayodele Fayose (indicted for money laundering and diversion of over 1.2 billion naira meant for Ekiti Poultry Project). According to **Zero Tolerance** magazine (October, 2007) the E.F.C.C in 2006 also recovered one million dollars fraudulently transferred from the account of a leading communication company to Hellenic Bank of Cyprus.

On the whole, according to Ribadu (2007) statistics showed that the E.F.C.C had, as at October 2006, received about 10,000 petitions, out of which 2,103 cases were under investigation, while 306 cases had come under prosecution. At the same time, about 200 arrests were made, and 112 convictions obtained, while about 5 billion US dollars worth of cash and assets were recovered. These include properties like houses, land luxury cars, shares, stocks, air planes and oil tankers (a

single individual, a governor, had about 50 billion naira worth of stolen assets traced to him alone!)

During the period under review, the E.F.C.C equally engaged in international cooperation, in terms of Mutual Legal Assistance (M.L.A) where the Attorney General files charges and the culprit is tried and extradited. According to Ojo (2009) 2 MLA requests were received and executed in 2003, while 5 were received in 2005.

It also bears stating that the good performance by the EFCC led to the de-listing of Nigeria from the category of “rogue states” or Non-Cooperative Countries and Territories (NCCT) by the financial Action Task Force (F.A.T.F) in 2005.

It is of note that within the period under review the E.F.C.C first introduced the Politically Exposed Persons (P.E.P.s) mechanism which constantly beams corruption searchlight on the P.E.P.s, defined by the F.A.T.F as “prominent public officers such as heads of states, royals, dictators, ministers, members of federal and state parliaments. They also include government officials, heads of customs, judges, state prosecutors, military leadership and important party officials.” In addition, the N.F.I.U coordinated a preventive mechanism empowered to promote “know your customers” (KYC) and “know your customers business” (KYC/B) principle in order to enhance due diligence in financial and designated non-financial institutions. This mechanism commits such institutions to report on their customers as well as compels financial institutions to report lodgments of certain thresholds with banks.

However, it was not all kudos for the E.F.C.C within the period under review as the body had come under mounting criticisms, condemnation and disapproval of some of its activities and modus operandi. One of such criticisms was that the E.F.C.C was selective and partial in picking on particularly alleged corrupt public officers. Critics pointed at so many corrupt governors, ministers, high-ranking government officials and party apparatchik accused of corruption and financial crimes, but who moved about freely untouched.

Closely related to this is the allegation that the E.F.C.C focused more on real and perceived opponents as well as potential rivals of President Obasanjo. For instance, it was obvious that people like Dariye, Fayose and Alameseigha had prior to their tango with EF.C.C fallen out with Obasanjo, allegedly due to their closeness with Vice President Atiku Abubakar, who was leading the vanguard against Obasanjo’s self-succession “Third Term” bid.

The E.F.C.C. at that period, particularly its controversial boss, Nuhu Ribadu, was also accused of disregard for due process. It was

pointed out that Ribadu was wont to pronounce suspects guilty even before trial commenced or engage in sweeping indictment of persons for corruption without stating instances and facts. Generally Ribadu thrived in grandstanding and craved (if not deliberately courted) the limelight and publicity. Allied to this was the criticism that the E.F.C.C. in many instances resorted to bullying, intimidation and arm-twisting tactics, reminiscent of the Gestapo of Hitler's Germany. Evidence of this was the manner the E.F.C.C coerced members of the state assemblies (arresting and detaining them) in Bayelsa, Ekiti and Plateau into impeaching their governors (Dariye of Plateau was actually impeached at 3.00am!). It came as no surprise to many that the impeachment of Dariye and Fayose were later nullified by the court and they were subsequently re-instated.

In addition to the above criticisms, the E.F.C.C suffered from some problems which, to some extent, inhibited its functions. For instance, the E.F.C.C lacks autonomy. Somehow the E.F.C.C Act places it under the thumb of the Attorney General (who must approve prosecution of suspects) and the president (whose wishes it must bow). Also, although the E.F.C.C appeared to have built robust and efficient machinery for prosecution, the process of trial itself is often replete with delays. The wheel of justice in Nigeria tends to move very slowly, hence conviction takes very long. At the same time, some judges compound or even create problems: they sometimes exercise their discretionary powers on ex-parte and restraining injunctions frivolously and even recklessly, or they release suspects even when this could jeopardize investigation and prosecution.

SUMMARY OF ACHIEVEMENTS RECORDED BY THE EFCC (2003-2007)

S/ N	PETITIONS RECEIVED	CASES UNDER INVESTIGATION	CASES UNDER PROSECUTION	ARRESTS	PROPERTIES RECOVERED	NO. OF CONVICTION	VALUE OF ASSETS & CASH RECEIVED
A	B	C	D	E	F	G	H
1	6,324	4,103	462	2,000	Houses, Cars, Land, Airplane, Oil Tanks	200	\$5B

Source: EFCC

MONEY AND ASSETS RECOVERED FROM 2003 TO 2007 BY THE EFCC

S/n	Names	Us Dollars	Pound Sterling	Naira	Asset	Remarks
1a	Gen. Sani abacha	50 million	-	-	-	From switzerland
B	-	150 million	-	-	-	-
C	-	500 million	-	-	-	-
D	-	149 million	-	-	-	From jeseey island
E	-	-	3 million	-	-	From united kingdom
2	Emmanuel nwude	242 million	-	-	-	-
3	Tarfa balogun	-	-	176 billion	-	Worth of assets and cash
4	Josua dariye	-	-	1.6 billion	-	Cash and assets
5	Dsp alamaeisegha	-	-	50 billion	-	Assets and cash
6	Ayo fayose	-	-	1.2 billion	-	Assets and cash
7	Globacom	1 million	-	-	-	-
8	Rivers state	-	-	-	Aeroplane	From south africa
	Total	1,092 million	3 million	228.85b		

Source: EFCC

Based on above findings, it is hereby suggested that concrete steps be taken by Government to make the E.F.C.C truly autonomous and independent (through appropriate amendments to its enabling Act). Also, the judiciary should be circumspect and cautious in their handling of corruption and financial crimes cases so that they do not unwittingly aid or abet same. Furthermore, researchers should beam their critical search-light on the activities of crime-busting outfits in Nigeria.

MONEY AND ASSETS RECOVERED FROM 2003 TO 2007 BY THE EFCC

S/n	Names	Us Dollars	Pound Sterling	Naira	Asset	Remarks
1a	Gen. Sani abacha	50 million	-	-	-	From switzerland
B	-	150 million	-	-	-	-
C	-	500 million	-	-	-	-
D	-	149 million	-	-	-	From jesey island
E	-	-	3 million	-	-	From united kingdom
2	Emmanuel nwude	242 million	-	-	-	-
3	Tarfa balogun	-	-	176 billion	-	Worth of assets and cash
4	Josua dariye	-	-	1.6 billion	-	Cash and assets
5	Dsp alamaeisegha	-	-	50 billion	-	Assets and cash
6	Ayo fayose	-	-	1.2 billion	-	Assets and cash
7	Globacom	1 million	-	-	-	-
8	Rivers state	-	-	-	Aeroplane	From south africa
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CONCLUSION

By and large, for the E.F.C.C, the period 2002 - 2006 (or its first term), was one of endless actions, drama and controversies. During the period the commission was very active and even to those who would insist that it sometimes pandered to the whims of the powerful forces and interests, the achievement of the E.F.C.C was enormous, manifest and unprecedented.

REFERENCES

- Danko, U.M. (2007). "The Economic & Financial Crimes Commission and Anti-corruption Campaign in Nigeria: An Evaluation," an Unpublished Thesis, National War College, Abuja, Course 15, April 2007.
- Economic & Financial Crimes Commission Act, 2002.
- Gaji, B. B. "Executive Corruption in Nigeria: Its Evolution, Dimensions & Impact on the Nigeria Public," paper presented at a sensitization workshop for Top Management & Legislators of the Gwagwalada Area Council, Abuja, 10th August 2006.
- Greenfield, J. "A Psychological Analysis of Corruption in Nigeria,"
- Mabogunje, A. (2001). "Anti-Corruption and the People: The Challenges Ahead," a Paper at a symposium organized by the I.C.P.C, Abuja (21-22, January, 2002).
- Nwanko, E. "An Address of the Formal Inauguration of the House of Representatives Committee on Anti-Corruption, National Ethics & Values," July 30th, 2003
- Odekunle, O. (2001). *Fighting Corruption & Organized Crime in Nigeria*. Ibadan: Spectrum Books.
- Odufa, S. BBC Focus on Africa, Magazine (March 2007).
- Otite, O. "Sociological Study of Corruption in Nigeria" in O. Odekunle (Ed). *Corruption in Development*. Ibadan: University Press, 1986.
- Ribadu, N. "Foreword to the Nigerian Journal of Economic and Financial Crimes," Vol. 1 No. 1 (April - June 2006).
- Ribadu, N. "The Anti- Corruption Crusade: Why, How and the Journey So Far," Convocation Lecture, University of Abuja, 9 March, 2007.
- Scanlon, G. "The Control of Corruption," Journal of Financial Crimes, Vol. 11, No. 4 (May 2004).

Lapai Sociological Review (LSR) Vol. 1 No. 2, 2009

Shehu, A.Y., "Corruption, Rule of Law and Sustainable Development,"
Nigeria Journal of Economic & Financial Crimes, Vol. 1, No.
2006.

Stuart, M.S. (1994). The North & Corruption in Africa. Otta: ALF
Publications.

Vision 2010 (1997): "Report of the Vision 2010 Committee, Vol. 11,
and Book 1: Critical Success Factor." Abuja: N.A.S.S Press.

www.google.com, 2003

Zero Tolerance Magazine, Vol. 1. No. 2 (October 2006).