

Effectiveness of the Economic and Financial Crimes Commission (EFCC) in Enhancing Accountability in the Nigerian Public Sector

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Abstract

The study is aimed at identifying strategies and measures that will strengthen the effectiveness of the commission in their fight against corruption in the Nigerian public sector to ensure accountability and transparency. The research adopted content analytical method and revealed that lack of societal cooperation, poor staff training, pre-bargaining and systemic disorder affect the effectiveness of the Economic and Financial Crimes Commission (EFCC) in their fight against corruption in the Nigerian public sector. The implication of the findings is that, it will be difficult for the government to succeed in the fight against corruption in Nigeria if the identified problems are not addressed. The study, suggests, that concerned and enlightened individuals should collaborate with the EFCC to get rid of corruption in Nigeria. Further, the government should adopt appropriate measures no matter how bitter, to root-out these causes of corruption if Nigeria is really serious about the fight against corruption. Government should ensure that the public sector officials discharge their duties in compliance with the code of conduct guiding the public sector.

Key words: Effectiveness, EFCC, Accountability, Public Sector

1. Introduction

Public Sector includes all organizations established, financed and operated by the government on behalf of the public (Nwabueze, 2005). It includes the Civil Service, parastatals and the government owned companies. The services rendered by these organizations are influenced mainly by political consideration rather than by market related demands. Its primary aim is not for profit but to render services to the public. The composition of the public sector varies by country. The 1999 Constitution of the Federal Republic of Nigeria did not really define public sector but instead interpreted civil service to mean, "Service of the Federation in a civil capacity as staff of the office of the President, the Vice-President, a ministry or department of the government of the Federation assigned with the responsibility for any business of the Government of the Federation", - Section 4, subsection 318. The Nigerian public sector consists of employees in Nigeria government agencies other than the military. Most employees are career civil servants in the Nigerian ministries, progressing based on qualifications and seniority.

The Nigerian Public Sector has its origins in organizations established by the British in colonial times. Nigeria gained full independence in October 1960 under a constitution that provided for a parliamentary government and a substantial measure of self-government for the country's three regions. Since then, various panels have studied and made recommendations for reforming the Public Sector for efficiency and transparency. The Public Sector has been undergoing gradual and systematic reforms and restructuring since May 29, 1999 after decades of military rule. However, the public sector is still considered stagnant and inefficient, and the attempts made in the past by panels have had little effect on the efficiency and transparency of the Nigerian public sector. In the recent years, the number and monetary value of public sector activities have increased substantially. This increase in activities has brought with it an added demand for accountability. Officials and employees who manage these activities need to render adequate accounts of their activities to the public. The public needs to receive accountability reports in order to assess the performance of those entrusted with the public sector resources. The situation here is so unfortunate, in the sense that the law makers, who are supposed to demand for accountability from the public office employee or holder as the case may be, are even more corrupt.

The menace of these crimes and the recognition of the magnitude and gravity of the situation led to the establishment of the Economic and Financial Crimes Commission (EFCC). Economic and Financial Crimes Commission (EFCC) is a Nigerian Law Enforcement Agency set up mainly to investigate and recover funds and properties of the government that have been illegally diverted into private pockets through public sectors of the

economy by some dubious citizens. This commission was established in 2003 but began operation in 2004. The legal instrument backing the commission is the attached EFCC Establishment Act 2004. The Act mandates the EFCC to combat financial and economic crimes and empowers it to investigate, prosecute and penalize financial and economic crimes. The Economic and Financial Crimes Commission (EFCC) Established by the EFCC Establishment Act 2002 and re-enacted by the EFCC Establishment Act 2004 is a body corporate with perpetual succession and a common seal. It is designated Financial Intelligence Unit (FIU) in Nigeria with powers to coordinate various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes. The Commission's power also covers combating terrorism and terrorist financing.

The Commission is also bestowed with the responsibility of enforcing the following laws promulgated to provide a legal framework to combat these crimes, including;

- The National Drug Law Enforcement Agency (NDLEA) Act, 1989,
- Foreign Exchange (Miscellaneous) Offences Act of 1995,
- The money laundering (prohibition) Act 2004,
- Advance Free Fraud (and other Related Offences) Act 1995,
- The Failed Banks (Recovery of Debts) and other financial malpractices Act, 1994 as amended,
- The banks and other financial institutions Act 1991 as amended and
- The miscellaneous offences Act 1985.

The Nigerian Government Established the Commission due to the severe negative perceptions of the country as a money laundry heaven and other forms of economic and financial crimes. The preponderance of these criminal activities had discouraged numerous potentials investors to Nigeria, thus diverting much needed FDI for the country's economic growth.

1.1 Statement of the Problem

Corruption crept into the Nigerian system immediately after independence in 1960 and even if the magnitude was nothing compared to the level it has now assumed, it was still prevalent, particularly among the government officials and politicians (Akpan and Edikan, 2008). When the move against corruption eventually started in 2004 by the Economic and Financial Crimes Commission (EFCC), several arrests, prosecution and recovery of public properties have been made by the EFCC and yet corruption is still increasing rapidly. The biggest problem facing the fight against corruption in Nigeria is its political system, systemic disorder and plea-bargaining which inherently rewards corruption. Too often, corruption is a prerequisite for success in Nigeria's warped political process. The country's political establishment is all too ready to embrace convicted criminals (Aminu, 2007). These images of senior government officials embracing convicted criminals only served to reinforce the broader trend of impunity that these convictions were meant to push back against. That is, it smoldered the furnace of corruption.

There were high hopes for the Economic and Financial Crimes Commission (EFCC) as Nigeria's most promising anti-graft agency to tackle corruption since the end of military rule. But its efforts have fallen short because of political interference, lack of societal cooperation, poor staff training and inefficiency in the judiciary. In the analyses of all the cases that have been instituted by the EFCC, neither Ribadu nor Waziri can claim more than a handful of concrete successes. Akpan (2008), posits that most Nigerians are of the view that the fight against corruption is sometime selective, some believe that the security agents shield some people from arrest while others believe that some people can carry out corruption without being noticed. The Attorney General of the federation also stated that the fight against corruption is selective (This Day 2008). This is why people are of the view that the commission was established to fight opponents.

In fact, the effectiveness of the Economic and Financial Crimes Commission (EFCC) in the Nigerian public sector has been affected by lack of societal cooperation, poor staff training, plea-bargaining and systemic disorder.

1.2 Objectives of the Study

The main objective of this study is to ascertain to what extent has the Economic and Financial Crimes Commission (EFCC) sustain its relevance in their fight against corruption in the Nigerian public sector to ensure accountability and transparency.

More specific objectives include:

- To ascertain whether lack of societal cooperation affects the effectiveness of Economic and Financial Crimes Commission (EFCC).
- To ascertain whether poor staff training affects the effectiveness of Economic and Financial Crimes Commission (EFCC).
- To ascertain whether plea-bargaining affects the effectiveness of Economic and Financial Crimes Commission (EFCC).
- To ascertain whether systemic disorder affects the effectiveness of the Economic and Financial Crimes Commission (EFCC).

2. Literature Review

Economic crimes relate to defaults in the distribution of income and wealth in the economy while financial crimes also relate to defaults but in the area of providing and managing funds for economic activities. In the public sector, economic and financial crimes are committed in several ways. Transparency international annual corruption perception index consistently rated Nigeria as one of the most corrupt and at one time or the other the most corrupt nation in the world. Corruption specifically is often characterized as directly impacting on the economies of developing countries. It undermines governance, economic growth and ultimately the stability of countries and regions. Corruption is simply the abuse of public power for private benefit (Spector, 2005). The fight against corruption in Nigeria one must acknowledge, is one of the most daunting and challenging task to embark on, but with political will and commitment by her leaders and the right attitude by all Nigerians there is no doubt that someday, the Transparency International will in her report rank Nigeria as one of the least corrupt countries in the world (Ameh, 2007).

2.1 Empirical Reviews

In the study carried out by Boluwaji (2008), he examined “Transparency and accountability in the public sector and the role of the anti-graft agencies”. A descriptive survey research design was adopted. He found out that; lots of accounting and financial control failures exist in the public sector and the public sector officials use these lapses as a shield for their actions. Also in his findings is that so many actions that are not in line with the code of conduct in the public sector are not investigated by the anti-graft agencies, some officials are not even queried at all when at fault and some when queried are not given adequate punishment because they have godfathers. He recommended that the government should install good account control to avoid embezzlement and/or mismanagement of funds in the public sector. He also recommended that the government should publish code of ethics to engender accountability and transparency in the conduct of any public sector officer. He urged the government to help tackle the problem of godfathers and sacred cows in the country and provide management with the techniques that will ensure proper accountability in the public sector in Nigeria.

Babatunde (2009) examined “Economic and Financial Crimes Commission (EFCC) and the fight against corruption in Nigeria public sector”. He adopted a survey research design and used questionnaire to generate data. He found that economic and financial crimes are most times not disclosed to the economic and financial crimes commission (EFCC) either out of no confidence in the commission to administer justice or as a result of patron-client relationship (godfatherism). Also in his findings is the lack of commitment on the part of the government to appraise and review the financial performance of the public sector parastatals, making it impossible for public officers to give account of their actions. He recommended that the government should invest more in the procurement of equipments for the commission (EFCC) and create enabling environment for them to be able to stop economic and financial crimes before they are committed and be able to achieve maximum result. He also recommended that the government should as a point of duty appraise and review the financial performance of the public sector as a way to avoid sharp practices by the public officers.

Lanre and Tomola (2010), in their own study looked at the “Public sector accountability; the implication of the conspiratorial relationship between political appointees and civil servants in Nigeria”. The study used survey research design by means of questionnaire. They found that the high level of corruption in Nigeria has been aided by the conspiratorial relationship between political office holders/appointees and civil servants (mostly the accounting officers). They are of the view that the conspiratorial relationship has led to flagrant and deliberate abuse of best practices and due process all in a bid to steal public funds. They recommend that; there should be a total administrative reform and good governance, encompassing public accountability to ensure that the people are held accountable for their behaviors as a deterrent to corrupt practices.

Ezeibe and Iwuoha (2011), examined in their study; “The political economy of public sector accountability in Nigeria”. The study adopted survey research design. They found out that; the public sector in Nigeria failed to measure up with their counterparts across the globe because it lacks in accountability and transparency. They recommended that to ensure sanity, progress and development in the public sector, code of ethics, values and accountability are tripartite essentiality and that the institution of enforcement and mechanisms is always crucial in achieving this.

All the studies reviewed were deficient on the side of not being able to address the problems that affect the effectiveness of the commission in the fight against corruption in the Nigerian public sector, hence the essence of this study.

2.2 Theoretical Framework

This study was anchored on the Organizational Role Theory. This theory was developed by Katz and Kahn in 1966. It states that the assignment of work-roles prescribes the behavior that employees are expected to comply with, so that they are able to perform their specific tasks and duties effectively. It provides insight into the processes that affect the physical and emotional state of an individual in the workplace that affects their workplace behavior (Kahn, Wolfe, Quinn & Rosenthal, 1964). Role theory as it relates to organizational leadership is how the leaders and followers in a business, usually management and employees, define their own roles, define the roles of others, how people act in their roles and how people expect people to act in their roles within the organization.

Role theory is based on the observation that people behave in a predictable way, and that an individual’s behavior is context specific, based on social position and other factors. It is designed to explain how individuals who occupy particular social positions are expected to behave and how they expect others to behave. Role theory was originally seen as a way to describe how organizations, as “a planned social systems,” manage to inculcate or produce reliable behavior on the part of their members (Katz & Kahn, 1978). Accountability theory is also rooted in explanations for predictable behavior. However, at its base, accountability implies the anticipation of an “accounting,” having to report or explain oneself to others in the future. In role theory, the focal worker also anticipates facing an accounting as well, in this case, having to respond in the future to the expectations of role senders (Klimoski and Ash, 1974).

Moreover, role theory and accountability both place a great deal of emphasis on interpersonal relationships. Besides these striking similarities regarding the structure and functioning of role theory and accountability theory in public sectors, the former perspective provides what we feel are important new insights regarding when and where accountability is produced and the organizational systems that are relevant. While accountability theory refers to the building of self-actions–standards perceptions, role theory also deals with such linkages, but in the form of role expectations (Schlenker et al., 1994). Both perspectives deal with social control in the public sector.

2.3 An Explanatory Analysis of the Theoretical Relevance

The main objective of the government for setting up the Economic and Financial Crimes Commission is to fight corruption which has created a negative perception of the country as a money laundry heaven and other forms of economic and financial crimes. Unfortunately, the expectations of the government and that of the general public have been defeated due to some lapses on the part of the commission to fight corruption effectively in the Nigerian public sector. The fight against corruption in the Nigerian public sector will not be achieved without the commission working in compliance with their statutory roles, hence the use of organizational roles theory.

The relevance of this theory to this study is because of the increasing rate of corruption in the public sector while the commission set up to fight corruption has not been able to perform up to expectation because of their failure in their statutory roles. In the public sector, those who are expected to act well in their roles within the organization are not doing so, thereby making others to follow suit. The EFCC as a matter of fact is expected to know their role and act in line with it. The problem of accountability in Nigeria is that people have failed to act in their roles within the organization and even the EFCC in acting within their role should not look at or listen to anybody, godfather or no godfather.

2.4 An Explanatory Analysis of Government Efforts in Curbing Economic and Financial Crimes in Nigeria

A viable democracy will not grow let alone flourish in an environment where economic and financial crimes are endemic. Previous efforts by past administrations to curb economic and financial crimes in Nigeria are either strangled due to inadequate enabling laws and regulations or neglected for apparent lack of commitment on the part of the stakeholders to fight the menace. In spite of these enabling laws and the relevant institutions to administer them, fraudulent activities still thrive in the economy unabated.

The Economic and Financial Crimes Commission (EFCC) is a major departure from the past enabling laws for fighting economic and financial crimes in Nigeria in terms of powers, functions and responsibilities. Besides, the EFCC enjoys collaborative assistance from international law enforcement agencies in the United States of America and across Europe. The commission is charged with these responsibilities:

- Enforcement and administration of the act in the overall context of preventing, detecting, investigating and prosecuting all cases of economic and financial crimes in Nigeria.
- Charged with the responsibility of enforcing other laws and regulations relating to economic and financial crimes.

The EFCC act empowers the commission to investigate, prevent, detect and prosecute offenders who engage in any form of economic and financial crime (Ribadu, 2004). According to him, as at August 2004, Nigeria had several thousands of law enforcement personnel working in various laws enforcement agencies. As at that time, the major anti-corruption agencies are the ICPC and the EFCC. The great impact the EFCC had made since its establishment is reflected in the common saying in Nigeria today, that ‘the fear of EFCC is the beginning of wisdom’- (Ribadu, 2004).

The enactment of the economic and financial crime act particularly boosted and sustained war on corruption. Through the strict enforcement of these laws that the EFCC was able to declare an Armageddon on corruption and sustaining it beyond Nigerian borders. Presently, all these are stories; the EFCC now lives on past glory. The government and the EFCC are just trivializing this war against corruption. What would the government and the EFCC tell the Nigerian people that happened to the case files of the 31 out of the 36 past state Governors, the case file of the former Inspector General of police, the Power Holding Company Scandal and so many others like that? In addition, payroll scams, involving large scale ghost workers have permeated all levels of government. At federal level, the government loses yearly N100bn to more than 45,000 ghost workers (Mefor, 2013) in Okekeocha (2013). Big time thieves are untouchable from the EFCC point. These are people that stole billions of naira while petty thieves with very few millions are harassed every now and then. Let me borrow from the words of Ndiameeh (2009:2)

“Thank God President Obama said it all; it is only Ghana that is serious fighting corruption in Africa. Jerry Rawlings must be proud of himself by now. At least Ghana is working, when will Nigeria’s own Jerry Rawlings come”?

2.5 An Explanatory Analysis of Transparency and Accountability in the Public Sector

According to Ribadu (2009), “the African Union has reported that corruption drains the region of some \$140 billion a year, which is about 25% of the continent's official GDP. In Nigeria alone, we had a leader, General Sani Abacha, who it was believed took for himself between \$5–6 billion and invested most of it in the western world.” He claimed that between 1960 and 1999, Nigerian officials had stolen or wasted more than \$440 billion. That is six times the Marshall Plan, the total sum needed to rebuild a devastated Europe in the aftermath of the Second World War. He further stated that when you look across a nation and a continent riddled with poverty and weak institutions, and you think of what this money could have done – only then can you truly understand the crime of corruption, and the almost inhuman indifference that is required by those who wield it for personal gain.

Apart from the constitutional mechanisms for ensuring accountability and transparency in the public sector, the administration of president Obasanjo established mechanisms for ensuring accountability and transparency, especially the establishment of the “Due process” procedures for contracts and procurements, investigation of contracts and government expenditures by the ICPC and the EFCC. The “Due process” mechanism is a government policy which is lacking in any formal legal enactment as a basis of operation. Its operation has also been criticized as it was often used to keep persons that are in “opposition” to government positions on issues from securing contracts.

According to Lanre and Tomola (2010) the activities of the anti-corruption agencies notwithstanding, the basic questions in the minds of the people are yet unanswered; they include:

- To what extent has the concept of accountability been embedded in the public sector?
- Has the introduction of the anti-corruption agencies had any impact on corrupt practices in Nigeria?
- Can the agencies checkmate the conspiratorial roles of the public appointees and the civil servants?

3. Methodology and Discussion on Strategies

This study adopted content analytical method. Opinions were used in analyzing the strategies for achieving the stated objectives. This was complimented by information obtained from the review of related literature. The idea of using opinions to analyze the strategies for achieving the objectives, complimented by information obtained from other sources was chosen as a means to ensure more reliable results for each variable. The commission can achieve a remarkable success in their fight against corruption in the Nigerian public sector if the following steps are taken:

It is true that the society has lost confidence in the activities of the Economic and Financial Crimes Commission (EFCC), thereby making it difficult for the commission to get useful information from the public. The reason for this loss of confidence is because of the belief in some quarters that the commission administers selective justice. It is believed that this loss of confidence can be restored if the commission can prosecute all that should be prosecuted without looking at faces, godfather or no godfather and not to shield some people from arrest. When this step is taken, it will help the commission to get more information about some corrupt individuals that should be investigated.

Most staff of the commission are not properly trained on how to carryout investigation on a particular matter and this affects the commission in their fight against corruption in the public sector. The major problem is the way a matter is investigated that shows whether the matter can be presented or prosecuted properly or not. There should be no propaganda, no speculation, they should provide facts. It is believed that if the commission will be able to recruit experienced and qualified staff and train them very well on how to carryout investigations, it will go a long way to helping them in their fight against corruption.

Plea-bargaining is another problem that affects the effectiveness of the commission in the fight against corruption in the Nigerian public sector. The Chairman of the commission confirmed this when he said that there is virus in the commission, that some officials compromise investigations. If the code of conduct of the commission can be made clear to their staff to the extent that they will be aware of the punishment for anybody that will be found guilty of corruption in the form of per-bargaining or any other form of misconduct. This measure will discourage the staff of the commission from any form of misconduct like pre-bargaining knowing very well that he or she will be punished accordingly.

Systemic disorder equally affects the effectiveness of the Commission in their fight against corruption in the public sector. If the commission can maintain their ground as to the provisions of the Act establishing it not minding the amount of pressure or interference from anywhere, be it the government, political party, the so called godfathers and so on; and do their job without looking at faces. This will make the politicians and the public office holders to sit up and be cautious of their actions.

4. Conclusion

The result of development in the past decade has been a weakened public service and a breakdown of the traditional instruments of control leading to corruption, misappropriation of funds and several other forms of economic and financial crimes hence the problem of public sectors accountability.

The economic and financial crimes commission (EFCC) presumably has not done badly since its inception. If not for anything, the fear of EFCC by an ordinary Nigerian makes people to be cautious in their actions. Although opinion leaders and even those considered to being the voice of the people have chosen to dismiss the impressive performance of the EFCC by politicizing the anti- corruption war. It is true that noting is perfect on earth; the EFCC we know then is not the EFCC we know today. People now condemn their actions on the assumption that they administer selective justice.

It is hoped that if the recommendations put forward in this research are effectively implemented and followed by all parties concerned, the problems of economic and financial crimes and accountability in the Nigerian public sector will be solved to a reasonable extent.

5. Recommendations

Since political corruption has continued to be a threat to the growth and development of democracy, there is a need to develop and articulate ways of dealing with the problem. If we must succeed in getting rid of corruption in this country, then, everybody must be ready to collaborate with the EFCC. It is not a one man business. The government (she) should as well build an upright work force in the public sector for accountability and transparency. She should give the anti-graft agencies free hand to do their job; godfather or no godfather. There should also be a total administrative reform and good governance, encompassing public accountability to ensure that the people are held accountable for their behaviors as a deterrent to corrupt practices. Further, any civil servant who connives or conspires with political appointees to commit or engage in any form of corruption should also be investigated and prosecuted by the anti-graft agencies.

Other recommendations are:

- EFCC and other anti-corruption agencies should be empowered and granted absolute autonomy to handle cases relating to political corruption. The EFCC should be given a free hand in the discharge of its duties by not interfering in its duties.
- The EFCC needs leadership that commands legitimacy, which will enable them to assert their independence and build the integrity with its rank and file.
- There is the need to reform and strengthen all the laws that were used to establish the EFCC and other anti-corruption agencies so that they are not weakened by the court.
- All persons not protected by section 308 who aids and abets these immunized officials in financial and any other type of corruption should be prosecuted immediately. The law should be strengthened to compel any elected officials declare their assets before taking oath of office.

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