Institutional Reform Policies and Processes and Good Governance in Nigeria’s Fourth Republic

By

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“Democracy is not and should no longer be perceived as a spectator sport. In a democracy all voices need to be heard, even if it is impossible to hear them all together.”---Blumber and Coleman 2001:20

“Montesquieu observed that, at the birth of new polities, leaders mould institutions, whereas afterwards institutions mould leaders.”---Putnam 1993:26

Introduction: The Road to Reform in Nigeria

Nigeria began her post-colonial history as a constitutional democracy. The Independence Constitution of 1960 established a constitutional democracy of the parliamentary variant, reflecting its colonial heritage as a colony of Britain. The 1963 Republican Constitution continued this tradition. In addition, as a federal state, the three Regions also had their separate Constitutions. The intervention of the military in government in 1966 ended the first era of constitutional democracy and it took another thirteen years for the country to return to constitutional democracy, with the inception of the Second Republic under the 1979 Constitution. This Constitution established a Presidential system, which has persisted since then. However, four years later, in 1983, another phase of military rule ended constitutional democracy. After a number of military takeovers, a cocktail of military-civilian governments and two long military-managed and unrealized transitions, the country returned to constitutional democracy in 1999, following the sudden death of the military dictator, General Sani Abacha in 1998.

The long years of military Rule had entrenched corruption in Nigeria; almost becoming institutionalized. Law and order had collapsed and the rule of law took a back seat in the face of tyranny, despotism and impunity. All law enforcement and other watch dog institutions were so compromised that they now served the needs of the corrupt than those of the society they were set up for.

Since the 1999, when Nigeria returned to democratic rule, a series of institutional reforms have been carried out to position the country to sustainably respond to the needs and aspirations of its citizens. These reforms as articulated by the National Economic Empowerment and Development Strategy (NEEDS) involved the following:
• Reforming the way government works and its institutions;
• Growing the private sector;
• Implementing a social charter for the people and
• Re-orientation of the people with an enduring African value system.

The NEEDS document was designed to cover a specific period of time. The end of the life span of NEEDS only presaged the entrance of the Vision 20:2020 document which was given prominence towards the end of the Obasanjo regime. It has become the main strategic blueprint of the country and may remain so until 20:2020.

The strategic goals of Vision 20:2020 are to make Nigeria

- key player in the World Economy
- Largest and Strongest African Economy

The ultimate goals as far as citizens are concerned are:

- Poverty Reduction
- Wealth Creation
- Employment Generation
- Value Re-orientation

These goals are to be achieved by

- Reform Govt. & Institutions
- Growing the Private Sector
- Implementing a Social Charter

**Objectives of this Presentation**

The Objectives of these presentations are as follows:

a. Outline the major institutional reforms of the government since 1999
b. Discuss the objectives of each of these reforms
c. Examine the issues and challenges associated with the reforms
d. Explore the roles of civil society and local communities in achieving the reform objectives.

**Governance and Institutional Reform**

The concept of governance probably stems from the Greek *kybernan* meaning to pilot, steer or direct, which was translated into Latin as *gubernare*. Our modern concepts of “government” and “governance” are indirectly related to this basic idea (Schneider & Hyner, 2006, 155).

One reason that made governance such an important concept in the social sciences is that it carries images and meanings of change. This "newness", and its relation to "change", is reflected in the following quotation from Rhodes: *Governance* signifies a change in the meaning of government, referring to new processes of governing; or changed conditions of ordered rule; or new methods by which society is governed” (Rhodes, 1996, pp. 652).
It captures a "shift" in thinking that suggest that authority is institutionalized, or at least can be institutionalized in different spheres, and by implication these arenas can compete, bargain, or coordinate among themselves or ignore each other.

"...one finds the notion that governance can increase the intervention capacity of the state by bringing non-state actors into the making and implementation of public policy, thus making the latter more efficient and less fallible. ... The catchphrase of this doctrine is that the state should limit itself to steering and leave the rowing to other actors. One could also speak of auxiliary forces within civil society who, through appropriatemeans and according to their specific competences and resources, are being recruited for cooperation in the fulfilment of public tasks, becomes subject to regulatory oversight and economic incentives, and are thus licensed to privately exercise (previously exclusively) public functions. The core intuition is that of a state-organized unburdening of the state.... Underlying this shift in emphasis is the vision of a "leaner" and at the same time more "capable" state" (Offe, 2009, 555).

The term governance became popular in debate on the development crisis in Africa with the World Bank's description of the African problem as "a crisis of governance". The Bank attributes Africa's crisis to the lack of countervailing power, which has enabled state officials in many countries to serve their interests without fear of being called to account. Consequently, because politics is personalised, patronage becomes essential to power as leadership assumes broad discretionary authority and loses its legitimacy. Information is controlled, and voluntary associations are co-opted or disbanded. The environment cannot readily support a dynamic economy (World Bank 1989).

For the Bank, governance is simply the “exercise of political power to manage a nation’s affairs.” But governance takes on several meanings depending on the author. For instance, Kaufman, Kraay and Zoido-Lobaton (1999:1) define governance as “the traditions and institutions by which authority in a country is exercised. This includes (1) the process by which governments are selected, monitored and replaced, (2) the capacity of the government to effectively formulate and implement sound policies, and the respect of citizens and the state for institutions that govern economic and social interactions amongst them. Governance captures the whole dynamic of organisational forms of citizens’ involvement in the management of public affairs for development and growth. Stoker (1998) has put forward five propositions of governance as drawn from the way the term has been used worldwide. According to him, governance:

- refers to a set of institutions and actors that are drawn from but also beyond government.
- identifies the blurring of boundaries and responsibilities for tackling social and economic issues.
- identifies the power dependence involved in the relationships between institutions involved in collective action.
- is about autonomous self-governing networks of actors.
- recognises the capacity to get things done which does not rest on the power of government to command or use its authority. It sees government as able to use new tools and techniques to steer and guide.
Governance stresses the concerted nature of the management of collective action in a modern economy. The idea that the state needs to interact and co-operate with non-state agents for it to effectively play its role in securing order and progress for the political community. It emphasises the essence of government as manager and guide in the concerted effort involving government agents and other actors to ensure growth and development. Although power is central to governance, it is not absolute, as accountability, transparency, and rules diffuses power. It pays attention to how political processes, rules and institutions affect economic outcomes and welfare. As the United Nations Development Programme’s (UNDP), Global Human Development Report 2002 put it, governance assumes that institutions, rules and political processes play a big role in whether economies grow, children go to school whether human development moves forward or backward. Development is an institutional and political challenge. Governance is purposeful, the goal being human development. In this regard governance seeks institutions and rules that ensure that human rights are protected, promote wider participation in the institutions and rules that affect peoples live in order to achieve more equitable economic and social outcomes (UNDP 2002:51-52). The conditions for good governance depend on the presence and consolidation of democratic characteristics. Several “pillars” of democratic governance that need to be emphasised include constitutionalism, the rule of law, and the professional civil service. Political institutions' role in engaging citizens, enhancing the legitimacy of fair elections, and promoting public accountability, transparency, and participation is very important.

An institution is defined as an enduring collection of formal laws and informal rules, norms, customs, codes of conduct, and organized practices that shape and govern human interaction. Institutional compatibility exists when formal and informal institutions complement each other and when they promote stability and consistency in collective life. When formal and informal institutions are incompatible with each other, social instability is likely to increase. Thus, institutional reform designed to improve the workings of institutions.

Institutional reform is more than just modernising state institutions. It is also about fostering dynamic partnerships with civil society and the private sector in order to improve the quality of service delivery, enhance social responsibilities and ensure the broad participation of citizens in decision-making. These trends put increased emphasis on the performance of the civil service and on the need for an effective and efficient public management that is transparent and accountable. The goal is to strengthen the way that the public sector is managed, by tinkering with the organisation, performance and working conditions of employees paid from government budgets. It may involve reducing the size or role of the public sector where it is overextended, doing too much with too few resources. It may also mean addressing the problem of poor decision-making processes; mismanagement of staff; weak accountability or poorly designed and poorly delivered public services.

Institutional reform is aimed to check opportunistic behaviour, especially by those in public office. Such behaviour often carries severe social costs. Hence, institutional reform is mainly aimed at making governments responsible, responsive and accountable to broader constituencies. This may be achieve by means of competitive elections, that restrain governments’ discretionary authority by creating multiple ‘veto players’ whose approvals required for policy changes (Tsebelis 2002). Historically, such institutions have emerged from hard-fought struggles between governments and their constituents, as self-enforcing bargains in which governments accept limits on their authority in order to reap the benefits of presiding oversecure systems of political and economic rights (North & Weingast 1989; Weingast 1997). Institutionalising limits on governmental authority is especially difficult in postcolonial
settings, since under colonial rule political and fiscal restraints are often enforced authoritatively by the imperial power, and at independence domestically self-enforcing substitutes are underdeveloped (Collier 1991).

There are two key elements of governance reform; Accountability and Transparency.

According to Chabal (1998:298) ‘political accountability is the mechanism by which the rulers are made to account to the ruled for their political actions’. Accountability takes place within the context of principal-agent relationships. In a democracy accountability means that the electorate has the right to withdraw the mandate they give to their representatives by not renewing it at election time. The citizens are supposed to be able to punish those in public office when they fail to do their bidding. The major instrument for exercising control over those in public offices is election. Elections enable citizens to punish their representatives by refusing to renew their mandate to govern when they are not accountable enough. But in the interval between elections there is a possibility that politicians can shirk responsibility to the electorate. But when citizens elect their leaders they temporarily delegate the exclusive decision-making authority over policy-making to the holders of public office. This creates room for abuse of power between elections. Secondly policy makers have access to much better information on the relative merits and precise consequences of alternative policies than the population at large. This creates room for potential abuse by public office holders (Persson et al 1997). Hence elections are inadequate to hold public officers to account. Indeed, experience in many new democracies has shown that the reestablishment of elections guaranteed neither decision-maker responsiveness to popular will nor unfettered political rights and civil liberties.

Accountability is the perennial challenge of all liberal democracies. This is not because other forms of government are necessarily accountable. It is rather because unlike other forms of government democracy operates within a principal --- agent framework in which those elected to govern are expected to be accountable to citizens who elect them in the first place. In an ideal democracy, citizens (principal) exercise control over their representative (agents) in power.

Designs and mechanisms (forms of horizontal accountability) have therefore been developed over the years to compliment the basic vertical accountability mechanism of election in several liberal democracies. These include the use of the principles of separation of powers and checks and balances, the use of autonomous agencies such as the office of the auditor general and anti-corruption organs to ensure public accountability. Vertical and horizontal accountability represent a complex system of power relations that help secure the sovereignty of the people and ensure that those who govern do so in the interest of citizens.

Transparency means that information is freely available and directly accessible to those who will be affected by decisions and that enough information is provided in easily understandable forms and media. This requires that decisions are made and enforced in a manner that follows rules and regulations. The word" transparency" carries with it a powerful array of moral and political associations, including honesty, guilelessness, and openness (Best 2005).

The effort toward transparency is usually supported by right-to-information legislation and citizen charters. The development of information and communication technologies (ICT) has brought about change in the form of information transaction, which has systemized the
transparency of governance. For example, ICT can provide relevant and timely information in large quantities and makes the governmental process more open and democratic. Snyder (2004) predicts that pervasive computing and documentation ultimately will make all things transparent in all public and private enterprises, with total transparency finally becoming international law in 15-20 years.

**Elements of Institutional Reform in Nigeria**

There is a good number of institutional reforms that have been designed to improve accountability and transparency since 1999. These are discussed below.

1. **Public Service Reform**

The civil service is the nodal point for the implementation of social objectives in a democracy. The performance of government under the current democratic dispensation rests largely on the quality of its civil/public service. The Nigerian civil service has repeatedly been criticized for lack of accountability, inefficiency, nepotism in recruitment, and poor equipment. The civil service has also been subject to a series of reform programmes since the 1970s. Nonetheless, when the country returned to civil rule in 1999, the general view in the literature was that the service was over bloated, ineffective and inefficient. Thus, the government embarked on new reforms to reposition the service.

Under the NEEDS strategy the reform was designed principally to “downsize” or “right size” the public sector and liberate Nigerians from the shackles of an overbearing and inefficient public sector by making the private sector the engine of Nigerian development. Other aspects of the reforms include cuts in the staff strength of the civil service and public corporations, monetization of certain benefits of civil servants, such as housing, transportation and the outsourcing of functions to private service providers (Dan-Abu, 2005). Public service pensions have been privatised. Series innovations have been introduced into the procurement process to make it more transparent and cost effective. In addition, the government established what it calls SERVICOM, which is a commitment to quality service delivery in all government offices by articulation of clear visions and missions, as well as establishment of a public complaints process.

The current agenda for the public service is broken down into three phases under the Vision document. The first phase is the rebuilding phase designed to restore professionalism, merit and client focus, equipment and infrastructures for the public service. Covering the period 2009-2011, it seeks to adopt a merit principle as the cardinal policy of recruitment and promotion...ensuring that positions and responsibilities are given to the most deserving and qualified.. Performance management is being introduced with the 2011 budget. According to Olusegun Aganga, Minister for Finance, the introduction of the performance-based budgeting, where every penny spent has to be accounted for, is also to reduce government expenditure, while the multi-year budgeting system will reduce the incidence of uncompleted projects. A ministry score card is expected to have been developed and annual ministry and country reports produced. The rebuilding phase is estimated to cost N21billion (Akowe 2010:4).

The second phase is the value driven phase, 2012-2015. The goal is to transform the service into a value-based, strong and well performing institution. The government will introduce and enforce a code of values and ethics for public servants to establish high standards of conduct
and serve as a deterrent for unacceptable practices. By this time the first cycle of performance management (PM) would have been completed in the service and PM would be institutionalised at the heart of planning, budgeting and competitive funding. The third phase, the World Class Service Phase, covering the period 2016-2020, is the achievement of a world class public service, where PM has penetrated to levels of departments, units and individuals.

Although, the reforms have been driven by the country’s goal to achieve the status of being one of the 20 leading industrial economies in the world by 2020, they are a part of a larger effort within the African charter to evolve developmental states, as stated by Stephen Orosanye (2011:28) who was the Head of Service in 2009-2010. In his words, “... a capacitated state that is committed to ensuring a better life for citizens, promote popular participation and the indigenous ownership of its developmental agenda; whose public service is people oriented, and based on meritocracy and driven by service to its citizens...mobilises, budgets and manages its public finance effectively and is underpinned by democratic politics”. What the new agenda suggests is that the many reforms relating to the skills capacity and right sizing carried out under the Obasanjo regime has not significantly permeated the public service. As Magregor et al (1998:6) noted, “downsizing does not improve service delivery. It merely produces a civil service that is smaller, but just as efficient or inefficient as before”. Indeed, there are still fundamental issues traceable to the 1988 reforms and the general deterioration in governance in the late 1980s and 1990s.

ii. **Procurement Reform**

In realization that failures in the procurement process contribute to corruption in governance and in other to identify and as a first step to introducing acceptable international standard practices in and regulation of public procurement in Nigeria, the federal government invited the World Bank to work with it to first conduct a nationwide assessment of the public procurement law and practice. The result of that assessment carried out in conjunction with a national taskforce, Country Procurement Assessment Report (CPAR) 2000, formed the basis of the Public Procurement Bill later sent to the National Assembly, revised and enacted into law in 2007 as the Public Procurement Act, 2007. The CPAR was a detailed diagnosis of the Nigerian procurement system and included both findings and recommendations (short and medium term).

Consequent upon the country procurement assessment report, and prior to preparation of a bill for procurement reforms, the federal government moved to implement the recommendations of CPAR, to the extent possible prior to legislative reforms. The government set up the Budget Monitoring and Price Intelligence Unit (BMPIU) in June 2003 as an operationally independent body headed by a Senior Special Assistant to the President. Although thinly staffed, its personnel comprised experts with a bias for project management, construction, and procurement. The Unit was the clearing-house for all federal government contracts and procurements of goods and services, and functions, until commencement of implementation of the Public Procurement Act 2007.

The BMPIU operated under clear goals, objectives, and strategies. Its goal was to put in place and ensure full compliance with laid down guidelines and procedures (produced by it) for the procurement of capital and minor capital projects as well as associated goods and services. Its objectives were to Harmonize existing government policies/practices and update same on public Procurement
• Determine whether or not Due Process has been observed in the procurement of services and contracts
• Introduce more honesty, accountability and transparency into the procurement process
• Establish and update pricing standards and benchmarks for all supplies to Government
• Monitor the implementation of projects during execution with a view to providing information on performance, output and compliance with specifications and targets
• Ensure that only projects which have been budgeted for are admitted for execution.

The strategies of the BMPIU revolved primarily around: regulatory, certification, Monitoring, training and advisory Functions.

Following enactment of the Public Procurement Act, 2007, the Federal Government established the Bureau of Public Procurement to take over the functions of BMPIU and implement the provisions of the Act. The Bureau also inherited the staff and physical structures of the BMPIU. The Act established two regulatory bodies to oversee and regulate the government procurement process: the National Council on Public Procurement (NCPP), and the Bureau of Public Procurement (BPP).

The function of the bureau include effective regulation of public procurement, harmonization of existing government policies and practices on procurement, setting common procurement standards, and developing the legal framework and professional capacity for public procurement in Nigeria.

The dominant instrument guiding procurement is Financial regulation (FR) are insufficient to guide nd support personsinvolved in procurement practice. Overall there is no benchmark from whichprocuring units can derive standards. Practice develops in different directions and becomes non transparent as it depends on the knowledge, will and interpretation of the procurement units and not on a uniform system regulated by law and regulationsgenerally known. Such system is easy to manipulate, difficult to control and nontransparent to bidders and the public. As a result, the Government does not get goodvalue for money and is at the moment not perceived by the private sector as a reliablebusiness partner.

There is no permanent body independent of the procuring entity where contractors/suppliers can file complaints regarding the procurement process. A supplier/contractor being maltreated by a purchasing public entity only has the option of lodging a complaint with the same entity that is accused of wrongdoing. The complaining contractors/suppliers are not guaranteed a formalised treatment containing legal assurances of transparency and equality of their complaints.

**Fiscal Responsibility**

Nigeria’s Fiscal Responsibility Act was enacted in 2007 to achieve the following:

a. provide for prudent management of the nation’s resources
b. ensure long-term macroeconomic stability of the national economy
c. secure greater accountability and transparency in fiscal operations within the medium term fiscal policy framework (MTFF)
d. establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the Act.

The FRA 2007 contains a mix of procedural and quantitative rules:
1. Procedural rules: MTFF, the budget process, savings and asset management, audits and reporting requirements for the government, transparency and accountability standards.

2. Quantitative rules: oil price-based rule, the size of the fiscal deficit, limits for accumulating public debt, reservation of public borrowing exclusively for capital expenditure.

Under the Fiscal Responsibility Act 2007 (FRA), over 30 FGN agencies are required to submit Schedule estimates of revenue and expenditure for the next 3 financial years under the Medium Term Expenditure Framework (MTEF). The following agencies are responsible for bulk of government IGR; Office of the Accountant General of the Federation (Revenue and Investment Department); Budget Office of the Federation (Revenue Department); Central Bank of Nigeria. For the first time in the economic history of Nigeria, an MTEF was produced and submitted to the National Assembly (NASS) and Fiscal Responsibility Commission (FRC) as required by the FRA on 29 July, 2009. The 2010/2012 Medium Term Expenditure Framework (MTEF) if properly implemented will bring about the needed discipline expected in government expenditure.

The functions of the FRC under section 3 of the FRA include to:

- monitor and enforce the provisions of this Act and by so doing promote the economic objectives contained in section 16 of the Constitution;
- undertake fiscal and financial studies, analysis and diagnosis and disseminate the result to the general public.

The Commission has power to:

i. compel any person or government institution to disclose information relating to public revenues and expenditure; and
ii. cause an investigation into whether any person has violated any provisions of the Act.

Many state governments have adopted the fiscal responsibility law. However, it is not clear how serious the governments are in ensuring that these initiatives are effective. Some of the operational aspects of the FRC need to be strengthened while stronger enforcement provision should be made for it to enable it to function maximally. There is a problem of low capacity and the cultures of patronage politics remain a problem. There is very little civil society involvement in the process.

The effectiveness of the Bureau for Public Procurement was put to question when legislators on oversight found that a runway for the NnamdiAzikiwe Airport was to be constructed for a whooping N64bn, when a similar run way was constructed in Bucharest for N17.5bn and in Thailand for N18bn. Indeed, the International Airport recently built by AkwaIbom State in Nigeria was built for N42bn. Padding and corruption has remained entrenched in the procurement system (see Editorials, Punch March 30 & April 11, 2010). These contracts were approved by the National Executive Council presided over by President Jonathan.

Furthermore, the then Minister of State for Information, LabaranMaku, expressing concern over the cost of contract remarked that procurement contracts in Nigeria was 30 per cent higher than what obtains in other West African countries. He attributed the situation to delay in the payment for jobs executed forcing contractors to factor potential economic consequences of delays and uncertainties into the cost of projects. But what this suggests is that efficiency, professionalism and probity is yet to be achieved. That this is happening after
the enactment of the Fiscal Responsibility Act 2007 and the Public Procurement Act 2007 shows the importance of commitment by exemplary behaviour of the political leadership in achieving reform goals (Punch Editorial July 14, 2010:14).

iii. Nigeria Extractive Industries Initiative (NEITI)

The Nigeria Extractive Industries Transparency Initiative (NEITI) was introduced in 2003. The NEITI Act 2007 mandates NEITI to ‘promote due process and transparency in extractive revenues paid to and received by government as well ensure transparency and accountability in the application of extractive revenues’. The Nigeria Extractive Industries Transparency Initiative (NEITI) is a subset of the global Extractive Industries Transparency Initiative (EITI), and for some time NEITI has been regarded by many actors as the global EITI’s flagship programme, or at least one of the two foremost national chapters of EITI (along with Azerbaijan’s.) As Peter Eigen, chairman of the board of EITI, put it, with respect to global EITI:

“The great moment of triumph was when President Obasanjo of Nigeria said I am going to allow the companies operating in Nigeria to publish what they pay to me, to my government, and in fact I will make it mandatory: they have to publish what they pay and I will publish what I received. That was basically the breakthrough.

1. NEITI’s shining was able to carry out the audit reports of the 1999–2004 oil sector accounts themselves. These reports, which are publicly available, contributed to significantly better transparency in Nigeria’s oil industry, collecting and publishing an array of detailed and useful information for the first time. Nothing remotely like this has been done before, let alone published. The reports went far beyond the basic core requirements of global EITI; it produced not only raw data on the industry and on tax and other fiscal matters; but it also provided crucial and useful insights into processes involved in the industry that have helped many insiders and outsiders to see the oil sector in overview for the first time.

2. EITI and NEITI did not drive reforms in Nigeria. Instead, they piggybacked upon major reforms that were happening anyway. NEITI was allowed to flourish, temporarily, amid the reformist political climate from 2003 to 2006. Although NEITI did not drive reforms, it did shape some of the outcomes – notably the audit reports – of processes of reform.

3. Measured against EITI’s and NEITI’s broader goals of fostering better governance and accountability, the initiative has not shown impressive results, and so far it is hard to see how better transparency has led, in turn, to better governance in Nigeria.

4. Civil society is supposed to be a key end user of EITI reports, but NEITI has performed poorly in this respect. NEITI’s attempts to build capacity in civil society have shown meagre results: although it has informed civil society it is hard to find evidence that it has significantly empowered or energized it, or enabled it in any serious way to ‘call Nigeria’s rulers to account’, as some have put it. This cannot be achieved simply by providing civil society with information – including the publication of a popular audit to make otherwise hard-to-understand audit reports comprehensible to a much broader audience. Some non-governmental actors have expressed the hope that is a matter of not having put enough effort and resources into supporting civil society; this report argues that the problems involved are deeper and more structural and will not be overcome simply with more effort in support of civil society initiatives.
5. The audience that has made most meaningful use of the NEITI reports are mostly located within elite circles and in government. These circles include the National Assembly, various ministries, advisers, policy-makers, and so on. NEITI can point to some successes here. The reports may also have been a boon to oil industry consultants in particular.

6. Measured against the narrower goals identified by David Goldwyn in his dealings with Nigeria’s rulers – to increase transparency and trust in the system – a stronger, though still not overwhelming, case can be made for calling NEITI a success.

iv. **Anti-corruption Reform**

Corruption is a huge challenge in the management of the public space in Nigeria. It is at the core of the crisis of governance, the establishment of a stable democratic order, rule of law, development and the welfare of citizens. In its generic sense it is about exploiting institutions designed to govern the relationships between state and citizens for private gains with consequence for perversion of state integrity through bribery, favouritism or moral depravity (Rose-Ackerman, 1999; Otite, 1986). Of all forms of corruption, political corruption has remained a major obstacle to national progress. The high profile nature of corruption in both high and low places is well acknowledged in the United Nations Development Programme (UNDP) Corruption Index and the annual reports of Transparency International. It is therefore not surprising that despite Nigeria’s endowment in human and material terms, she continues to be ranked as one of the most impoverished countries in the world.

The endemic and intractable problem of corruption is believed to be strongly tied to the pre-eminent position of the state in the political economy of Nigeria. In other words, public sector corruption is driven by the overarching role of the state in production or in industry which make control of the state a prized possession among fractions of the ruling elite. In this situation access to state power means everything to the winners in the prevailing zero sum spirit of the “winner takes all”.

State revenue derived from direct tax declined the mid-1970s witnessed further decline as a result of the emergence of oil wealth with implications for the dynamics of electoral politics in the post-independence period. This makes reference in public discourse to “tax payer’s money” almost a misnomer. Of particular importance is the disconnection of political representation from a system of public revenue generation in the form of appropriation of taxes from citizens. In an influential essay on democracy in rural Nigeria, Jane Guyer (1998), show the significance of the organic relationships between systems of public revenue generation on the one hand, and the mode of governance on the other. She shows how taxation provided the basis of political representation and was linked to universal franchise in a manner that provided the moral basis of demand for accountable and transparent governance. Thus, the absence of this linkage in Nigeria reflects in the character of political corruption. Political corruption in Nigeria includes outright seizure of public treasury by elected public officials and the use bureaucratic power to amass wealth, and use of money to undermine the sanctity of electoral democracy.

When money politics and the corruptive tendencies associated with it are not curbed the following are the consequences:
- Disconnection between elections and the notion of a mandate in the sense that candidates who are ‘voted’ into power assume that they have rendered upfront payment for the votes.
- Providing incentives for channelling money from infamous sources including self-seeking private sector actors and in some instances organized crime.
- It tends to promote the interests of political parties in power and incumbent candidates who have the leverage to channel state resources into election campaigns, or attract campaign funds from organized private sector and foreign sources to the disadvantage of opposition parties and weak candidates.
- It elevates to the highest level the politics of patronage and the phenomenon of ‘godfatherism’ as one ‘powerful’ individual underwrites the cost of elections by providing money to induce voters.

Against the backdrop of the problem posed by corruption to national development Section 15 (5) of Chapter 2 of the Constitution stipulates that “the State shall abolish all corrupt practices and abuse of power”. President Olusegun Obasanjo’s government set up the Corrupt Practices and other Related Offences Commission (ICPC) and the Economic, Financial and Crime Commission (EFCC) to deal with corrupt practices. These two institutions are to compliment the activities of the Code of Conduct Bureau and the police and court system.

The fight against corruption is a part of the larger government National Economic Empowerment and Development Strategy (NEEDS). Among others, NEEDS seeks to reduce the cost of governance by embarking on anti-corruption crusade, and curbing the rent-seeking behaviour of government officials.

**ICPC**

Independent Corrupt Practices and Other Related Offences Commission were inaugurated on September 29th, 2000 as the hub of Nigeria’s fight against corruption. The commission receives complaints, investigates and prosecutes offenders. It also educates and enlightens the public about and against bribery, corruption and related offences. Of particular interest is its role of reviewing and modifying the activities of public bodies, where such practices may aid corruption.

The ICPC is generally considered to have been one of the most promising yet disappointing anti-corruption agencies set up by the government of President Obasanjo. It was originally bugged down with litigations. For instance, by the case filed by the Attorney – General of Ondo State, arising from ICPC’s first corruption case in May 2001, querying the constitutionality of the Act 2000, the activities of the Commission were effectively paralyzed until June 7, 2002 when the Supreme Court upheld the validity of the legislation. Also, in 2003, the defunct National Assembly scrapped the Commission by revoking the Act 2000 and promulgating a bogus Act as a replacement. This unpatriotic move was overturned by the Abuja Federal High Court on the grounds that the law was passed without following due procedure.

Since then the ICPC has been able to prosecute a few public officers and has several cases pending in court (Ogbonna 2004,). It is collaborating with anti-corruption NGOs and has established anti-corruption clubs in schools. It has also set up anti-corruption and Transparency Monitoring Units in ministries and parastatals across the country (Akanbi 2004).
However, overall the ICPC has a potential for combating corruption but its capacity seems to be weak. There is need to shore up its capacity for it to effectively perform its statutory role. It must be recognised that this will have to be done in a context where pro-corruption forces seek to scrap it or make it useless as an anti-corruption agency. Indeed, another agency that has generated popular excitement in the anti corruption war is the EFCC. To this we will now turn.

EFCC

The Economic and Financial Crimes Commission (EFCC) is the second anti-corruption agency set up by the President Obasanjo government. Its focus is to combat financial and economic crimes. The Commission is empowered to prevent, investigate, prosecute and penalise economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes, including: Economic and Financial Crimes Commission Establishment act (2004), the Money Laundering Act 1995, the Money Laundering (Prohibition) act 2004, the Advance Fee Fraud and Other Fraud Related Offences Act 1995, the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994, the Banks and other Financial Institutions Act 1991, and Miscellaneous Offences Act.

In addition, the EFCC is the key agency of government responsible for fighting terrorism. The EFCC under the Leadership of NuhuRibadu has been quite effective in carrying out its statutory roles and its activities have made newspaper headlines (see Ojewale 2006). It has acquired experience in handling cases of advance fee fraud(commonly called 419), such as obtaining by false pretence through different fraudulent schemes e.g contract scam, credit card scam, inheritance scam, job scam, lottery scam, wash wash scam(money washing scam), marriage scam, immigration scam, counterfeiting, and religious scam. It also investigated cases of cyber crime, including cases involving banks and other financial institutions, cases of issuance of Dud cheque, fraudulent encashment of negotiable instruments, foreign exchange malpractices and other financial malpractices in financial institutions.

The definition of economic and financial crimes under its purview includes cases associated with good governance, transparency and accountability in government. It investigates cases of abuse of office, official corruption, bribery of government officials, diversion of public funds through fraudulent award of contracts, corruption in land allocation, tax fraud, capital market fraud, Money laundering, Oil Bunkering etc. Thus, the EFCC is quite useful in combating electoral fraud. Indeed, it is a veritable instrument for promoting good governance. The EFCC was instrumental to the arrest in London of former Governor D.S.P. Alamieyeseigha of Bayelsa State, who was eventually impeached, tried and convicted on corruption and money laundering charges in Nigeria.

As we noted earlier, the EFCC has been a remarkable anti-corruption organ in Nigeria. It has recorded successes convicting and sentencing individuals, including men in high places, who have been involved in economic and financial crimes. It has also made significant progress in the assets recovery drive. In fact, it is reputed to have been working with several international policing and intelligence organisations to deal with money laundering, including cases involving some state governors in Nigeria. Its experience will be very useful in checking electoral fraud and related malpractices. For instance, it took the intervention of the
EFCC to discover that part of the ₦1.6 billion ecological fund mismanaged by Governor Joshua Dariye was donated to the People’s Democratic Party (PDP).

The challenge, however, is the emerging view that EFCC is being used by the government to deal with perceived opponents and enemies. Some individuals have questioned its failure to investigate the financial crimes associated with the 2003 elections. Others have protested its failure to investigate the allegation of bribery in the National Assembly during the debate on the failed Constitutional Amendment Bill that sought to extend the tenure of the President and state chief executives. It has also been accused of not respecting the rule of law. This was the case when it froze the account of the Plateau state government in disregard of a Federal High Court in Lagos ruling to the contrary (Albert 2006:19).

EFCC has also extended its operation to the banking sector, which was embroiled in monumental financial malpractices and frauds, money laundering and poor corporate governance. It took the intervention of the CBN and EFCC to save the country from what would have been the worst financial crisis. As a palliative measure, CBN injected the sum of ₦620bn tax-payers money by way of a bailout to six distressed banks. But for the EFCC, this initiative would not have made any impact. Beneficiaries of questionable and unserviceable loans were made to pay up. Within six months, the Commission raked in approximately ₦200bn to the six distressed banks.

The Economic and Financial Commission (EFCC) remains the leading agency in the fight against corruption in Nigeria. It has continued to build on its achievements since 2008. In line with this objective of the NPoA, EFCC has strengthened partnership with donors and collaboration with counterpart institutions such as the European Union; the United Nations Office on Drugs and Crime (UNODC); the United States (through the Federal Bureau of Investigation, FBI); German Government (through the German Federal Police); the French Government (through its Embassy and Police Attaché); and the British Government (through the Metropolitan Police and Department for International Development (DFID) and the Israeli Police. These partnerships have enabled the EFCC to improve its capacity-building effort through the training of its officers locally and internationally, with support of donors and counterparts.

The fight against corruption has yielded results. High profile corruption cases have been exposed. Persons involved have been punished and made to refund looted funds to government. Among the celebrated cases are those involving former Inspector General of Police, Tafa Balogun, and governors of Bayelsa and Plateau states. At least 3 serving Ministers have been sacked as a result of bribe for budget scandal (The Guardian, March 23, 2005). It has been reported that the EFCC has so far recovered over N400 billion stolen money (The Guardian, November 27, 2006). The ICPC recently revealed that 14 governors are under investigation (Tribune, November 26, 2006). Similarly, two presidents of the Senate in the first term National Assembly were removed over allegations of contract awards bribes.

Nevertheless, there are several cases of electoral malfeasance and other manifestations of political corruption that have neither been investigated nor persons involved reprimanded. For instance, the President Olusegun Obasanjo openly admitted that Chief Chris Uba, a PDP chieftain from Anambra State confessed to him the he rigged the 2003 governorship election in the State in favour of Chris Ngige. The judgment delivered by the Anambra State Election
Petition Tribunal nullifying the election of Ngige confirmed this. But nothing has been done to bring the culprits to judgment.

Fighting corruption in the political sphere remains a big challenge. The current democratic regime has put in place mechanisms that can prosecute the war against corruption, while there is improved awareness on the part of the citizenry regarding the imperative of exorcising the ghost of corruption. The EFCC has recorded significant landmarks in the fight against corruption by bringing to book “big fishes” in corruption waters including former Inspector General of Police, Governors and Ministers. But not much appreciable progress has been made in coming to terms with political corruption expressed in electoral fraud and vote buying as demonstrated by the 2003 elections, and the fears regarding the 2007 elections.

Consequently, there are obvious strengths and weaknesses in the current efforts to deal with the canker worm of political corruption. While the strength lies in the existence of legislation and bodies to fight corruption, and some appreciable level of progress recorded by these bodies, there are a number of weaknesses in the fight against political corruption:

- There is a strong perception among many Nigerians that the EFCC and the ICPC are selective in the cases to investigate, and have largely targeted perceived political opponents of the President.
- Electoral democracy does not seem to make much sense to the average Nigerian voter because the pervasive role of money ensures that there is no relationship between voting and electoral outcome. But even more fundamental is the obvious disconnect between the people’s votes and electoral mandate.

These challenges or weaknesses have remained as a result of the following reasons:

- Anti-corruption agencies appear to be more accountable to the executive rather than to parliaments and citizens.
- The existence of tension between the activities of EFCC and the rule of law or due process, which tends to confirm the impression that it is a tool of the President.
- Lack of information on the part of citizens and civil society.
- Undue politicization of the courts and court processes.

Waziri has identified two factors accounting for the slow progress in the work of the EFCC. The first is the interference in the work of the organisation by the ministry of justice, especially the Office of the Attorney General of the Federation. That office has the power to apprehend a case and stop the EFCC from proceeding further on it. This institutional problem should be addressed by the National Assembly as it progresses with the next round of constitutional review. Similarly, the power of the president over the EFCC must be reviewed to shore up its independence. These are necessary to strengthen the independence of the anti-corruption agencies.

Another factor which the EFCC chairman has identified as a major obstacle to the expeditious disposal of cases is slow pace of trial. Two factors are responsible for this situation. The first is the tricks employed by lawyers to bog down the cases. The lawyers bring all kinds of applications to frustrate and stall the trial process. This is especially so in the cases in the federal high courts. This is a major challenge requiring the reform of the federal court system and those in states that have not reformed their legal system. The convictions that have so been swift have been achieved in the High Court of Lagos State. This is because the court system in Lagos State has been reformed. We call on the Chief
Justice of the Federation and other stakeholders in the judiciary to take a cue from Lagos and other countries and commence immediate reform of the justice system. As part of this reform process, we recommend that special courts be established for corruption cases. Indeed, the consequences that corruption has had for the progress and social stability of the country make this an imperative.

As for Waziri’s claim that there are entrenched interests in high places trying to stall the work of the commission, we think it should be expected. In fact, as the work of the commission progresses, criminals will continue to find new ways to beat the organisation and avoid its clutches. We call on Waziri to brace up to the challenges. We call on civil society organisations to rise up in support of the EFCC in the difficult mission of fighting corruption. They can provide information and ideas on how to strengthen the organisation, support it against those who want to denigrate its work and call out Nigerians to put pressure on parliament to provide laws that will promote the work of the EFCC and ensure its effectiveness. The business of fighting corruption is to important and challenging to left in the hands of the anti-corruptions bodies alone. They need the support of concerned citizens. Nigeria’s vision in fighting political corruption as within the larger concern for improved democracy and political governance is a corruption free society in which governments at all levels as well as political institutions are open, transparent and accountable to citizens in meeting their development and welfare needs. To realize this vision, there is urgent need to address the following:

- Review of the Acts establishing the ICPC and the EFCC to guarantee more autonomy and make them accountable to the National Assembly.
- Providing for, and strengthening the role of private prosecutors in matters dealing with political corruption including those related to electoral offences.
- Provide easy access to information for citizens and the media. The enactment of the Freedom of Information Act is a welcome development in this regard.
- Reform of the electoral law to include limit to campaign finances by candidates and political parties, incorporation of disclosure rules to ensure that sources of campaign funds are fully disclosed as well as an agency that can monitor, verify, investigate and prosecute offenders.

Community Participation and Institutional Reform

The institutionalization of participation by all people is a cornerstone of good governance. Participatory governance provides citizens with access not only to information, but also to decision-making power. It means access not only for a privileged few, but for all. Participatory governance entails the close involvement of people in the economic, political, cultural, and social processes that affect them and facilitates the access of individuals and groups to a wide range of opportunities that, in turn, promote responsiveness of governance actors toward people-centred development.

Participation is a right of citizenship and the extension of the right of participation beyond traditional voting and political rights comes the search for more participatory approaches in the processes of democratic governance. Citizens' rights, such as the right of access to administrative documents, are now known as the "third generation" of human rights.

Democratization involving the dismantling of state controls and the provision of new opportunities for participation in socio-economic activities; the information revolution
through mass media, has dramatically increased access to national and global information; and the rapid expansion of nongovernmental organizations at the local level.

ICT can be utilized for citizen participation in governmental processes at all levels; it depends on the critical assumption that ICT is universally accessible throughout society. But there is a limitation in access.

Although there are new, innovative mechanisms of accountability, transparency and participation, their creation alone does not ensure their transformative possibility. Despite the progress made in participatory governance, major segments of society continue to be excluded from the benefits of development: the rural and urban poor, ethnic and religious minorities, and women and children.

**Conclusion**

Hesse (2005) asserts that critical factors for successful government reform include (1) strong political will and support by the head of the state; (2) innovations within crucial policy areas; (3) a change in the rationale and attitude of government, one that is competent, value oriented, knowledge based, open, accountable, and participatory; (4) step-by-step organization of an ambitious innovation program; and (5) a substantial, all-encompassing modernization process. Most important, it is necessary to recognize that government reform is like "a marathon, not a sprint". The government should recognize the inevitable roles of the civil society organizations in the mainstream of democratic governance. This has to be demonstrated by providing concrete opportunities for civil society organizations to participate meaningfully and positively in the national decision making process. Bringing in civil society – technical, financial and logistical support for grassroots monitoring of most of the reform measures such as procurement. NEITI and FRA compliance is crucial. Civil society and government have roles to play in educating local communities on the provisions, and implementation in engaging with political actors on their accountability to the electorate, fiscal discipline and transparency.

Civil society needs to show positive leadership by setting up a peer review process like we find in some other countries. Transparency and accountability are not problems of government agencies alone. There are lessons to be learnt from Egypt and other places where popular uprising is promoting change.

**Some Lessons from Egypt**

The first lesson is the focus of the uprising in Egypt on universal issues of free speech, unemployment, emergency laws, free election and so on regardless of the effort by some sections of the elite to hijack the process with other notions. That is why the effort by several groups like the Islamic Brotherhood and popular Egyptian leaders, like Elbaradi to assume leadership of the movement did not materialize. In the case of Nigeria, the struggle for human rights, free elections, inflation, poverty and respect for the people’s mandate were quickly relegated to the background and was supplanted by “power shift” which was
achieved without holding previous rulers to account and hence the democratization of corruption.

The second lesson was the centrality of education of those participating in centres of concentration of protests. Not only were people gathered in Tahrir Square for a long stretch of time and resisted effort to remove them from the venue by the government, the protest venue was used as a platform of education. The leaders of movement had studied the work of Gene Sharp on non-violent revolution before the event of January 25. They distributed copies of Sharp's list of 198 non-violent "weapons", and other ideas from the practice of non-violence translated into Arabic in Tahrir Square during its occupation. Those who want change must value education as to the state of governance, the various strategies for addressing governance challenges and the opportunities available to change agents.

The third lesson has to do with the leadership of the pro-democracy movement in Egypt. The most graphic example being the Google Executive, Wael Ghonim, who was one of the two persons behind the face book account We Are All Khaled Saeed, named after the young man who was beaten to death by the police. He was arrested during the uprising and when he was released after 11 days in detention, he not only insisted on the demand for Mubarak to step down, he walked off camera with emotion telling the journalist that those to be praised are the protesters and the dead. In a later address to the protesters in Tahrir Square he stressed that “This is not the time for individuals, or parties, or movements. It's a time for all of us to say just one thing: Egypt above all.” In another interview he noted that the revolution was like Wikipedia, everyone was contributing content but you do not know the names of those contributing. Contrast these with the Nigerian pro-democracy activists who became instant heroes. Most of the key figures became larger than their organizations. Some even held meetings with the military junta without the approval of their organization, arguing that they acted on personal invitation. They held on to leadership positions, appropriated contributions from donors to themselves and quickly went away to found alternative organizations when they were eventually “forced” to relinquish leadership of the frontline organizations like the Civil Liberties Organization and the Campaign for Democracy.

References:


