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CORRUPTION, HUMAN RIGHTS' ABUSE AND SUSTAINABLE DEVELOPMENT: CRITICAL REFLECTIONS ON NIGERIA'S ANTI-CORRUPTION STRATEGIES

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ABSTRACT
The paper examined how the failure of anti-corruption strategies has led to pervasive corruption and human rights abuse in Nigeria. It made use of documentary research and employed content analytical approach. It contended that corruption is pervasive in all its forms and has fueled fragility, violent extremism, organized crime and conflict in Nigeria. it is further argued that corruption's pervasiveness in various forms has provided fertile ground for human rights abuse by security forces. The findings indicated, among other things, that Nigeria's anti-corruption strategies have been ineffective and inadequate due to haphazard, non-comprehensive and selective application. Hence, corruption has undermined the ability of government to provide public goods and services in requisite quantity and quality, reduced public trust in government and increased poverty levels in the last twenty-one years of democracy in Nigeria. It recommended a broad-based elite consensus on the crucial need to eliminate corruption from the country's governance space. It is also imperative for developed countries to genuinely take a stand on corrupt leaders in Nigeria by turning away questionable monies that always found its way into advanced economies, a tendency that incentivize corrupt leaders.
Keywords: Corruption, human rights, poverty, governance, sustainable development

Introduction

This nexus between corruption and human rights abuse is logically obvious and has evolved from back to front burner position in the light of contemporary international development debate symbolized by the transition from the Millennium Development Goals (MDGs) to Sustainable Development Goals (SDGs). The danger posed by corruption to development sustainability is underscored in the call by the United Nations for all states to "substantially reduce corruption and bribery in all their forms" as a critical condition for achieving agenda 2030 for sustainable development (UN, 2015).

States with considerably high levels of corruption are simultaneously those with extremely poor human rights condition (Peters, 2019). For instance, in this category are Somalia, Afghanistan, Kenya, Russia, Malaysia and Mexico with renowned records of pervasive corruption and human rights violation (Terracino, 2008). As Peters (2019) notes, corruption undermines the enjoyment of human rights by citizens even those that are guaranteed in the constitution of every state. For example, resource waste or mismanagement and corruption constitute a grave obstacle to the judicious allocation of resources to the promotion and defence of human rights. Massive corruption therefore undermines human rights with grave and devastating effects on the enjoyment of rights (Landman & Schudel, 2007). Again, in countries such as South Sudan, Syria, Nigeria and Somalia, the impact of corruption on human rights is considerably palpable with preponderant abuses orchestrated by security agents (Olaniyan, 2014).

Corruption affects human rights in diverse ways. For example, citizens' rights to health and education including food and water have been violated or radically undermined by an offer of a bribe to gain access to these rights. Countries with phenomenal levels of grand or institutional corruption see to the diversion of huge public resources by top government officials into private hands; resources meant for provision of public goods designed to meet rights of citizens. In this way, corruption undermines the capacity of "government to fulfill its duty to protect, ensure and respect the rights of its citizens" (Gatthi, 2009, p.126). The deepening levels of poverty in Africa and in Nigeria are indirectly linked to the high levels of corruption in the continent and Nigeria in particular. By diverting resources away from investment in education and health, citizens are systematically starved of requisite knowledge and skills to leverage opportunities for growth. Similarly, the lack of health care aggravates living conditions that are then accentuated to grinding poverty (Falana, 2015).

Nigeria's anti-corruption strategies adopted in sync with the donor agencies angst against grand malfeasance reflects attempts that are targeted at promoting market efficiency while radically reducing spending on social investments like health and education. Where the public is aggrieved and frustrated resulting in public protests, then rabid arrests and detention ensues without trials. In general, arrest and detention have remained the preponderant strategies in Nigeria's anti-corruption attempts which in themselves are examples of gross human rights abuses which rather undermines efforts towards sustainable development. This is the thrust of this article which is sliced into five sections. The section on introduction provides the background into the relationship between corruption and human right abuses. Section two explores the conceptual firmaments of corruption, human rights and sustainable development while section three seeks to promote understanding of the relationship between anti-corruption and human rights abuses in Nigeria. Section four illustrates the negative impact of the anti-corruption strategies in Nigeria being human right abuses on sustainable development. The concluding section ties policy recommendations on reform of anti-corruption strategies for enhanced human rights enjoyment towards fulfilling the sustainable development goals.

Corruption and Human Rights

There are differing views about corruption all of which relativize the phenomenon to cultural and social norms evaluation. The disagreement about what constitute corruption resonates with the practices that are its exemplars. For instance, Terracino (2008) notes that while embezzlement and bribes have assumed a global acceptability as corrupt practices they are pushed to public sector occurrences. This then set the tone for a differentiation in views about what corruption would mean along the public-private sector divide. Accentuations of these views have resulted in the varying definitions of corruption such as the synthesized Transparency International (2009) "abuse of entrusted power for private gain" and World Bank's (1997) popularized phrasing that "Corruption is the abuse of public power for private benefit". These prescriptions underline the fact that a holder of a position be it private or public may be corrupt by acting contrary to the law or laid down procedure that benefits the actor.

In order to bridge the sectoral fragmentations and criminalize acts that are framed under the rubric of corruption as crimes, the Southern African Development Community Protocol against corruption states that;

> Corruption means any act refers to in Article 3 and includes bribery or any other behavior in relation to persons entrusted with responsibilities in the public and private sectors which violates their duties and public officials, private employees' independent agents or other relationships of that kind and aimed at obtaining undue advantage of any kind for themselves or others.

Legally corruption is not a crime but has under its rubric acts that are categorized as criminal. The United Nations Convention Against corruption (UNAC) circumscribes corrupt manifestations to include bribery, embezzlement, misappropriations or diversion of property, trading in influence, abuse of functions,

illicit enrichment, and laundering of proceeds of crime (UNAC, 2009). Any of these acts of corruption has direct or indirect effect on human rights. The consequences of these acts are not only widespread but impact negatively on society, especially the enjoyment of rights. For example, and as noted by Lovitt (2004, p. 1), corruption doesn't only line the pockets of politicians and public officials. It prevents money flowing to those who need it, depriving hospitals of vital medicines, leaving schools without schoolbooks".

Human rights considered as claims or entitlements of individuals by virtue of being human were first codified in 1948 after the human rights catastrophes of World War II (Furh, 2010). The Universal Declaration of Human Rights outlines political, civil, social, economic and cultural rights that are universal and to which all humans are entitled. To provide legal force to these rights the International Covenant on Civil and Political Rights (ICCPR) was codified to restrain states from interfering with individuals and political rights and civil liberties. These include the right to self-determination, the right to life, freedom from torture, right to liberty and security of person, freedom of religion, expression, association and the right to vote (ICCPR, 1966). The International Covenant on Economic, Social and Cultural Rights (ICESCR) generally considered as a second generation of rights include the right to "safe and healthy working conditions", the right to decent remuneration that meets the needs of workers and their families, the right to "an adequate standard of living including food, clothing and housing". The ICESCR also provides for "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" and the right of everyone to education". The ICESCR provides a huge discretion for states having mandated their obligation to respect, protect, and fulfill human rights (Peters, 2015). Thus, states are obliged to "take steps to the maximum of their available resources with a view to progressively achieve the full realization of economic, social and cultural rights" (ICESCR Art. 2.1). Two obligations of states are obvious here; first, there is the obligation to quickly take steps to progressively ensure that these rights to everyone under their purview are realizable and second; to commit their maximum resources towards this objective. Steps to be taken by states must be deliberate, concrete and specific to this purpose.

The deliberate, concrete and unmediated steps to be taken within the context of devotion of maximum available resources may reflect in new legislations, judicial remedies or governance measures that may be administrative, financial, educational or social. The obligation to respect the rights of everyone makes it incumbent on states to refrain from interfering in any form with the enjoyment rights. The obligation to protect requires states to put in place measures that would restrain a third party from interfering in any way with the enjoyment of rights. It is also obligatory for states to ensure the fulfillment of rights when effective measures are involved to facilitate the enjoyment of rights by everyone (Teracino, 2008). When states in their acts of omission do not seem to conform to their obligation to respect, protect or fulfill human rights then such acts are considered as violations of rights. Put differently, acts or omissions of states that do not protect, respect and fulfill rights of citizens are tantamount to human rights violations.

Pervasive corruption in any state manifest in bribery and embezzlement invariably meaning that huge resources meant for healthcare, education and housing are being diverted and access to these public goods is being denied citizens. What this means is that maximum resources are no longer being choked to ensuring the fulfillment of economic, social and cultural human rights. In such a state, corruption exacerbates poverty and unemployment, poor health care delivery and low standard of education and in extreme cases lack of access to these critical social services. Logically therefore, corruption further undermines efforts at sustainable development.

To realize development sustainability yet achieving higher levels of material progress for majority of citizens without endangering the capacity of future generations to enjoy meaningful lives, states are obliged to take steps to eliminate all obstacles to the realization of economic, social and cultural rights. One of these major steps is anti-corruption (Boersma, 2010; Rose-Ackerman, 2013). This step is activated because corruption is directly connected to a violation of human rights when corrupt acts are specifically used as means to violate the right of citizens. That in effect hurts the enjoyment of rights.

Corruption in a particular act violates human rights when the act is meant to undermine the enjoyment of a specific right. Terracino (2008, p.8) illustrates strongly where "a bribe to a judge affects the independence and impartiality of the judge and hence the right to a fair trial is violated". Here the corrupt act of offering a bribe is a specific means used to undermine the fairness of a trial on the part of the accused.

Anti-Corruption and Human Rights

In general, it is a widely held view that corruption violates human rights (Peters, 2015, Terracino, 2008, Fuhr, 2013). This does not mean that every corrupt act does so even though in a long run every corrupt act would undermine the enjoyment of human rights. Corruption is said to directly violate human rights by preventing individuals from having access to a particular right. For example, when patients are compelled to offer bribes for access to a medical doctor for treatment, the right to healthcare is violated. Equally when an individual is forced to pay a bribe to access education, the right to education is infringed by an act of corruption (UNODC, 2017).

Anti-corruption measures are targeted at halting corrupt acts to prevent them from hurting human rights of everyone. This reflects the obligation of states to respect, protect and ensure the fulfillment of rights. At the centre of these approaches to tame corruption is the amplification of the good governance and human rights synergy which suggest that they are mutually re-enforcing in their objectives. Good governance and human rights have shared core principles of participation, accountability and transparency. As has been argued by Barkhouse, Kroll and Limon (2018), the realization of human rights which include the right to information, the basic freedoms and independence of the judiciary creates a fertile environment for efforts to curb corruption. Put differently, the efforts to curb corruption will be futile in an environment where human rights abuse are prevalent, when a state focuses in respecting, protecting and fulfillment of human rights, it then expands the premises of inclusivity of anti-corruption measures and thereby enhances a more systematic response to corruption (UNHR, 2013).

The contemporary hubris on anti-corruption globally is a much recent development spurred by the World Bank, the United Nations and Transparency International in the push for good governance and by implication development beginning in the early 1990s (Lovitt, 2004). In the 1960s and 1970s corruption in the developing world was literally ignored by economists in the Western world, even though the phenomenon was rising simultaneously with emergence of authoritarian rulers who were expanding and intensifying their control of societies in the south. Military rule or one-party system were dominant in especially Africa with accompanying instability and rising corruption. Western economists including policy makers were reluctant to criticize African leaders in the hope of giving them a chance at governance and development. Huntington (1968) for instance asserted that ''corruption was a welcome lubricant, easing the path to modernization". There was an ideological fillip to this tolerance of corruption. For instance, all countries that rejected communism were considered allies of the West irrespective of their governance regimes hence anti-corruption was not a foreign policy priority towards the south. The former Soviet Union on the other hand accepted as allies all countries that rejected market based economic approaches and thus refrained from criticizing their corrupt tendencies.

Thus, during the decades of the 60s and 70s, corruption was widely accepted as a necessary cost of business as it was termed the "virtuous bribery story" (Wei, 1999). Others like Leff (1960) had argued that bureaucratic corruption held the promise to promote growth of the economy by helping to bypass the tedious regulations introduced by authoritarian nationalist regimes. In this way contract awards by bribe taking bureaucrats ensured that contracts were awarded to the lowest bidder thereby re-enhancing efficient resource allocation. Though this turned out in the opposite as years rolled by but such theorizing had served the purpose of ignoring corruption or rather promoting it in the developing world. Studies in comparative political studies also supported the view that corruption was helpful to economic growth and development

in the period. Huntington (1968) in particular had argued along the effects of comparative integrative politics in plural developing societies that the way corruption promoted integration would be the same way it would support economic expansion.

The impetus to anti-corruption was propelled by the very corruption spurred by multinational corporations (MNCs) in the developing world that undermined state sovereignty but gave vent to their profit maximization through the exploitation of natural resources. In strategic response using the UN platform, developing countries sought to use their numerical strength to reform the global political economy by compelling MNCs to refrain from using bribes offered to bureaucrats and appointed government officials to control their economies. These efforts were seized by the Organization for Economic Cooperation and Development (OECD) countries to initiate actions to ensure that MNCs improved their relationship with host countries by focusing on making positive economic, social and environmental contributions host countries (Gathii, 2009). The US government would also be stunned by the Watergate scandal and Congress had to pass the Foreign Corrupt Practices Act of 1977 to criminalize payment of bribes to foreign government officials.

The sustained buildup of global anti-corruption response resulted in the mid-1990s in a consensus that corruption was deleterious to economic growth and private investment (World Bank, 1997). The World Bank's good governance agenda resonated with the IMF's focus in this area to promote anti-corruption as the primary goal of governance strategy. The indicators of good governance were then fashioned to include no corruption, accountability, and political stability, absence of violence, government effectiveness, regulatory quality and rule of law. Unequivocally, voice, accountability, absence of violence and rule of law are central to human rights. However, whatever anti-corruption efforts through the strategies and instruments adopted, while focusing on taming corruption, they should be inclined towards human rights-based approach. This approach accepts the criminalization of perpetrators of corruption, but it is important for it to marry the focus of human rights law on the victim and their rights. The states' obligation to prevent corruption must not therefore lose sight of the rights of perpetrators and the society. Corruption and the strategies for dealing with the phenomenon applied in many developing countries including Nigeria deleteriously affect human rights and by extension sustainable development. When resources meant for investment in health and education are diverted to private ends many citizens miss out on access to education and those who struggle to gain access are shortchanged by receiving less quality education because facilities are less than optimum. In the health sector, citizens are denied access to quality health care due to lack of investments in medicine, training of personnel and acquisition of enhanced facilities for affordable and meaningful health care delivery. When lives are undermined through lack of innovative and creative education and efficient health care, citizens lack the requisite health and skills to live in a manner that consume resources that guarantee the chances for future generations to enjoy the same resources.

Anti-Corruption Strategies and Human Rights in Nigeria

Though it is widely accepted that corruption is not a crime, its acts are in clear violation of the rule of law, a cornerstone of human rights. The impacts of corruption on human rights have been elaborately proven. The 2009 report of the International Council on Human Rights policy illustrated the negative consequences of corruption on the ability of states to provide public goods: administration of justice, healthcare and education (Krajewska and Makowski, 2017). Falana (2015) has also affirmed that corruption is responsible for poverty in Nigeria, as well as the violation of the people's right to development when the country has lost over $400bn to large scale corruption since 1960.

If corruption harms human rights, anti-corruption policies and strategies are equally deleterious. The impetus to anti-corruption derives from international donor agencies such as the World Bank, IMF and the European Union and the UN. Following the UN Convention against Corruption (UNCAC) in 2003, it urged signatory countries to implement series of institutional and legal anti-corruption measures. Many countries

responded positively by adopting a wide variety of measures. These measures were designed to please donor agencies and foreign investors or used by politicians to mobilize voter support. In many countries such as Nigeria or Poland, government used anti-corruption measures as a technique to smash the opposition. Across many countries, anti-corruption measures were adopted and implemented in response to a moral panic (Krajewska & Makowski, 2017).

In Nigeria, the Independent Corruption Practices and other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) were established in early 2000s with enabling laws as anti-corruption agencies. The Court of Appeal sums up the powers of these bodies with respect to the acts of corruption to mean that;

> the EFCC and the ICPC enjoy the status of the powers vested in the police which encompasses the duty to examine a complaint or petition, investigate and prosecute if necessary and when that petition is made to the statutory body, their duty to look at the complaint cannot be suppressed

The tension between human rights and anti-corruption arises during the process of detecting, investigating, and prosecuting corruption cases which is fundamentally the exercise of the duties of the anti-corruption bodies. This process of detection, investigation and prosecution has severally and severely jeopardized human rights (Grunberg, 2007). Notably, harm has been inflicted on the right to fair trial, the presumption of innocence, the guarantee against self-incrimination, the right to property and privacy and the right to human dignity.

Indictment, Detention, Judicial Harassment

The EFCC has since its inception made profound achievements following ruthless efficiency in its investigations resulting in convictions of high-profile Nigerians and recovery of properties, through forfeitures. Between 2003 and 2010, the EFCC had prosecuted 52 cases in courts of high-profile Nigerians including 13 former state governors. Table 1 illustrates such cases.

Table 1: Prosecution Records by EFCC

S/N	DEFENDANT	OFFICE HELD	DATE	CHARGED
1.	Tafa Balogun	Inspect General of Police	2002 – 2005	2005, April
2.	Diepreye Alamieyesegha	Governor, Bayelsa	1999 – 2005	2005 December
3.	Abubakar Audu	Governor, Kogi State	1999 – 2003	December 2006
4.	Joshua Dariye	Governor Plateau State	1999 – 2007	July 2007
5.	Orji Kalu	Governor, Abia State	1999 – 2007	July 2007
6.	Saminu Turaki	Governor, Jigawa State	1999 – 2007	July 2007
7.	Jolly Nyame	Governor, Taraba State	1999 – 2007	July 2007
8.	Chimaroke Namani	Govenor, Enugu State	1999 – 2007	July 2007
9.	James Ibori	Governor, Delta State	1999 – 2008	December, 2007
10.	Ayo Fayose	Governor, Ekiti	2003 – 2006	December, 2007
11.	Lucky Igbinedion	Governor, Edo State	1999 – 2007	January, 2008
12.	Iyabo Obasanjo-Bello	Senator, Ogun State	2007 – 2011	April 2008
13.	Adenike Grange	Minister of Health	2007 – 2008	April, 2008
14.	Gabriel Aduku	Minister of State Health	2007 – 2008	April, 2008
15.	Babalola Borishade	Minister of Aviation	2005 – 2006	July, 2008

16.	Femi Fani-Kayode	Minister of Aviation	2006 – 2007	July, 2008
17.	Michael Bomtang	Governor Plateau State	2006 – 2007	July, 2008
18.	Boni Haruna	Govenor Adamawa State	1999 – 2007	August, 2008
19.	Rashidi Ladoja	Governor, Oyo State	2003 – 2007	August, 2008
20.	Olabode George	Chairman, NPA	1999 – 2003	August, 2008
21.	Nicholas Ugbane	Chairman Senate committee on Power		May, 2009
22.	Ndudi Elumelu	Chairman, House Committee on Power		May, 2009
23.	Igwe Paulinus	Chairman, House Committee on Rural Development		May, 2009
24.	Jibo Mohammed	Deputy Chairman, House Committee on Power		May, 2009
25.	Attahiru Bafarawa	Governor, Sokoto State	1999 – 2007	Dec, 2009
26.	Abdullahi Adamu	Governor, Nasarawa State	1999 – 2007	March, 2010
27.	Nasir El-Rufai	Minister FCT	2003 – 2007	May, 2010
28.	Hassan Lawal	Minister of Works	2008 – 2010	May, 2011
29.	Dimeji Bankole	Speaker of House of Rep.	2007 – 2011	May, 2011
30.	Usman Nafada	Speaker, House of Rep.	2007 – 2011	June, 2011

Source: HRW, 2011.

By 2018, the EFCC had obtained 315 convictions and 192 in 2019. Among these were high profile convictions of Nigerians like James Ibori, Tafa Balogun, Lucky Igbinedion, Olabode George, Deprieye, Alamieyesiegha, Joshua Dariye, Jolly Nyame and Orji Uzor Kalu (EFCC, 2019). In addition to these are billions of dollars of recoveries in cash and assets. The towering records of achievements by the EFCC have been made in the shadow of egregious abuse of the rights of suspects and convictions through media indictments, and trials and judicial harassment. In an interview conducted by Human Right Watch (HRW) with a former EFCC operative, abuse of rights was established notably thus;

> Did we break the rules? Yes. You cannot fight corruption and go by the rule of law. Everywhere you look, it's them. The elite, they have the courts, they have everything…. If you go by the rule of law you won't achieve anything… Because of the interest and passion, we had, we saw a window and just broke in.

Most suspects or alleged corrupt individuals are indicted before investigation is concluded while the media is unleashed on them through press conferences literally pronouncing them guilty before trial is set to commence. This tendency of 'media trial' violates fair trial and human dignity of the accused (HRW, 2011). A classic case of undermining the rights to fair trial by EFCC masterminded by political influence to weaken the opposition occurred in 2007 when in the build up to the general elections 135 high profile Nigerians were indicted by an administrative panel investigated by the Commission of which 77 cases were reviewed and the rest indicted within 48hours without the opportunity to appear before the panel (HRW, 2007/9. These are clear violations of ICCPR.

The Commission is notorious for the use of arbitrary searches, arrest and detention of suspects in horrible correction centres as a coercive measure to obtain conviction without fair trial. Working in cahoots with trial courts, individuals have been denied bail to be detained in such horrible detention centres which fear of a prolonged detention, compel them to enter a guilty plea against their will. In addition, suspects' bail grants have been ignored by the Commission or re-arrested shortly courts may have granted such bails. The

arrest, detention and trial experiences of Olisa Metuh and Godwin Emefiele are very illustrative (Ezigbo, 2016).

Conclusion: Lessons from Nigeria for Anti-Corruption Strategy Evaluation

While corruption undermines the enjoyment of rights, the impetus to combat it seem far alien and designed to appease donor agencies and to respond to "moral panic" instigated by the contemporary wave of adoption of good governance principles. In large measure of developing countries, authoritarian ends have driven the utilization of anti-corruption strategies to deal with the opposition and to attract votes and these egregiously hurts rights of citizens.

Under the inducement of these variegated factors with peculiar ramifications, tension has developed between human rights and anti-corruption processes of detecting, investigation and prosecution that have tended to harm human rights like fair trial, human dignity, the right to property, presumption of innocence and the right to privacy. The EFCC, Nigeria's foremost anti-corruption czar's lack of independence, weak judicial system and moved by the pranks of "moral panic" has variously infringed on economic, social and cultural and political and civil rights of indicted persons. It is important to adopt a human rights-based approach to anti-corruption in order to beam the human right lens on the process so as to highlight crucial aspects of equality and non-discrimination during detection, investigation and prosecution. This will resonate with agenda 2030's objective to leave no one behind in the attempt to achieve the 17 sustainable development goals that clearly focus on social, economic, political, cultural and environmental safety through good governance, the rule of law, access to justice, personal security and the fight against inequality.

Another very critical step by the Nigerian government is to enhance the independence of the EFCC by amending the establishment law to provide for a competitive appointment process for the leadership of the Commission through a select independent committee whose recommendation shall be approved by the National legislature. This independence shall allow the Commission to operate on the dictate of the law being supreme as a cornerstone of the rule of law and democratic principles.

As it is the standard practice in UN agencies regarding the development of legal instruments or projects, a human right impact assessment be embodied in the legal document establishing the EFCC to be conducted annually. This would provide an inclusive participatory framework for academics, policy and civil society voices in the mainstreaming of human rights issues in the work of anti-corruption agencies.

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