

**EFCC and Politically Exposed Politicians in Post 2011 Elections: An Analysis of Governors
who lost Elections**

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Abstract

The anti-graft agency came into existence only a few years after Nigeria became a democracy in 1999. Its first Chief, Nuhu Ribadu, claimed that Nigeria lost more than \$380 billion to graft between 1960 and 1999 (Eme 2010). The nation's political class reigned with impunity until the agency's creation. Under him, the agency arrested powerful state governors and earned media praise. However, the agency under Ribadu trampled on suspects' rights while avoiding targeting allies of then President Olusegun Obasanjo. The Commission has only garnered four convictions against Nigeria's political elites since its creation in 2004, with those found guilty facing little on prison time. Waziri took over the Commission in 2008 and has been criticised by the United States of America diplomats for being unprepared and for apparently being controlled by politicians. Others have leveled corruption allegations against her and operatives of the commission, though none has been proven. There is no telling the fact the wait is still on, close to a decade after. Instead of corruption abating it is increasing. Sadly, though with a clearly equipped arsenal to achieve spelt out goals, the EFCC allowed the enemy virus, which has previously destroyed the fabrics of the polity to creep into its operations. Thus, instead of a steely approach towards fighting crimes, the agency became a clay-footed organ that hardly get anything done. Pioneer chairman, Nuhu Ribadu, has shown the direction of the body would go when, like an attack dog for Obasanjo, he began arresting enemies of the former President. Particularly, those not agreeable to his third term bid, anti-climaxing in the odious impeachment of state governors without the mandatory two-third majority required by the 1999 Constitution. Last November, his replacement, Farida Waziri, like Ribadu, was unceremoniously removed from office, for reasons observes believes could also not be different from the sins of her predecessor-, more excuses than effectiveness. The paper examines the many problems of the Commission as well as the challenges of anti-graft war in post April 2011 Nigeria as it concerns governor who lost in the elections.

Keywords: Corruption, Politically Exposed Individuals, Anti-Graft Agencies, Social Control Theories

Introduction

Recently, the country has been agog over reports of the arrest and arraignment in court, of three former governors on allegations of fraud totaling N101 billion. Those facing trial are Gbenga Daniel, Ogun State, Adebayo Alao Akala, Oyo state and Akwe Doma, Nasarawa State. According to Economic and Financial Crimes Commission, EFCC in whose custody the accused currently are,

the three men engaged in fraudulent activities and diversion of billions of naira belonging to the public while in office. Daniel is accused of misappropriating N58 billion, Alao Akala, N 25 Billion and Akwe Doma, N18 billion.

Understanding many Nigerians, especially those who believe the three former governors and many other's who served until May 2011, literally turned the states they governed into private fiefdoms, are dancing with joy that at last, nemesis is catching up with less than upright governors. And while the trio are considered innocent until they are pronounced guilty by the courts, many see their arraignment as a refreshing development, foretelling a cleansing period.

But prescient Nigerians are not excited about the development. They see the present scenario as a charade orchestrated by the EFCC to convince Nigerians that the commission is actually working hard at fulfilling its role of ridding the country of financial crimes, especially in governance. And who can blame them for their pessimism? A brief look at past instances where the commission arraigned former governors and top government officials accused of monumental fraud hardly gives Nigerians cause for optimism that justice would be done this time around.

On 13 July 2007, the EFCC slammed a 107 count charge of money laundering and mismanagement over N5 billion belonging to the Abia State government against Mr. Orji Uzor Kalu. Kalu, who was governor of the state from 1999 till May 2007, was alleged to have diverted sizeable chunks of embezzled funds to Slok Nigeria Limited, a company owned by him. A particular striking claim by the EFCC was that Kalu transferred N887 million to Slok's account in one day. Four years down the line, however, the case against Kalu seems to have petered out [Eme, 2011].

In July 2007, Dr. Chimaroke Nnamani, governor of Enugu State from 1999 to May 2007, was arraigned on a 105 Count charge of stealing 5.6 Billion naira belonging to the state. Initially, Nnamni fled the country. But perhaps assured that nothing would come out of the case he returned to take up his seat in the Senate, where he served for four years, only losing the seat via defeat at the 2011 elections. Another similar story is that of Alhaji Ibrahim Saminu Turaku who governed Jigawa State from 1999 to 2007. He was, also in July 2007, arraigned by the EFCC on a 32 account charge of stealing N36 billion. Turaki was even alleged to have stolen N6 billion on one day. But that did not stop him from like Nnamani becoming a senator. After the sensational arraignment, nothing is being said about the charge.

A particularly interesting, case was that of Rev Jolly Tanko Nyame, former governor of Taraba State, who was arraigned by the anti graft agency on a 41 count charges of stealing over N5.5.

Billion of the states fund. So scared was Nyame when he was placed in EFCC custody that blurted out his readiness to refund his loot if such action would let him off the hook [Eme, 2011]. Nigerians are yet to learn about any refund Nyame might have made. Yet the case seems to have been abandoned.

Chief Joshua Dariye, ex-governor of plateau state is another example of seemingly dear cut case gone awry. Dariye was arrested on 2 September 2004 at a hotel in London in connection with money laundering offences: 93,000 pound cash was recovered from his hotel rooms. Dariye was bailed pending further enquires but promptly absconded to Nigeria. But his accomplice, Joyce Bamidele Oyebanjo a housing tenancy manager from Tessa Gardens, Waltham Cross Hertfordshire, had no such luck. She was sentenced to three years imprisonment, at Southwark Crown Court, having been found guilty of laundering 1.4 million pounds stolen from Plateau State funds. On Dariye's return to Nigeria, he was charged, in February 2006, along with six state functionaries including the finance commissioner and the permanent secretary in the state Finance Ministry, to an Abuja High Court for allegedly embezzling N700 million state funds. But since section 308 of the 1999 Constitution granted Dariye immunity from prosecution as governor, he was not docked. Six years have since passed, yet it would seem Dariye is still enjoying that immunity from prosecution as governor.

The sheer number of abandoned corruption cases littering the landscapes is indeed freightening and makes one wonder what is amiss. True, the courts share a huge part of the blame for lending themselves to corrupt politicians granting injunctions that invariably delay trials. Some even go to the by ridiculous extent of restraining the authorities from even investigating not to talk of persecuting, some suspects. This was the scenario, in March 2007, when the former River State Governor; Peter Odili, obtained a curious Federal High Court decision forbidding the EFCC from investigating the finances of his government even in the face of massive embezzlement and mismanagement of public funds. And after Odili left office, he managed to secure a perpetual injunction the EFCC from arresting, detaining and arraigning him on the basis of his tenure as governor.

Again, the Federal Government does not help matters when it courts suspected criminal ex-governors, allowing them to nominate candidates for juicy political appointments as was the case of James Ibori's influencing appointment of Olutokunbo Enabayo a fugitive from justice in the United States, as the Executive Director, Finance and Administration, Nigeria Sao Tome and Principe Joint Development Authority, JDA- or even offering them appointment despite their pending trials- as is

the case with Adamu Muazu, ex-governors of Bauchi, who was recently or pointed as chairman of the Nigeria Maritime Administration and safety Agency, NIMASA.

But the bulk of blame should go to the persecuting body, the EFCC on many occasions, in its bid to win public acclaim; it rushes to arraign suspects in court without thorough investigation. Unfortunately, this appears to be the case with the three ex-governors currently on its custody. Already, skeptics are entering the commission's explanation that the cases against the governors emanated from petitions written against them, to be a subtitle way of exculpating itself from blame should it fail to secure a conviction. So why should EFCC base its case on mere petitions, in some cases written by equally corrupt officials rather than its operatives conducting thorough investigation? The Commission's call to government official in the states where the arraigned ex-governors were arraigned by the EFCC is anything but reassuring. In fact, it reeks of ill preparedness on the part of EFCC. Basing cases on petitions apparently accounts for the inchoate range of charges against officials. Who says the charges have or be many? One of two strong charges could prove to be more effective than tomes of charges based on hearsay and poorly investigated. Merely juxtaposing assets owned by suspects with the taxes they pay could form a formidable case against them.

It is amazing how the Nigeria Financial Intelligence Unit, NFIU, the Nigerian arm of the global Financial Intelligence Unit domiciled within the EFCC as an autonomous unit, is lacking in initiative of tracking money laundering and other financial crimes perpetrated by high ranking government officials. It arouses deep suspicion that officials of the establishment are lining their packets with graft collected from arrested suspects. Whichever is the case, Nigerians have had enough of the charade.

The essence of this paper is to examine the role of EFCC in the prosecution of politically exposed politicians in post-2011 Nigeria using the case of governors who lost in April 2011 elections.

CLARIFICATION OF CONCEPTS

POLITICALLY EXPOSED PERSONS

There is no internationally agreed-upon definition of politically exposed persons. As a result, understanding who these “customers” are and how far the definition of PEPs should stretch is a difficult and politically sensitive topic (UNDOC and World Bank, 2007:25). Standard setters generally agree that PEPs are individuals who are, or have been, entrusted with prominent public functions, such as Heads of State or government (World Bank, 2007:25). The standards setters and a considerable number of jurisdictions also expect financial institutions to treat prominent public official’s family and close associated as PEPs (UNDOC and World Bank, 2007:25). Attempts to provide increased clarity to the definition have resulted in some standard setters limiting the scope of the PEP definition to exclude domestic PEPs, family members beyond immediate family, junior or middle ranking PEPs. In some cases, countries have issued a limited list of positions that financial institutions are obliged to consider as politically exposed. Some of these restrictions may be designed to allow for greater efforts to be expended on more exposed PEPs (Limitations on Junior or middle – ranking). Flexibility on this issue also seems to make sense for each individual jurisdiction. At the same time, core definitions that are too restrictive (for example, including only immediate families and close associates) are likely to create loopholes, as evidenced on actual corruption cases (UNDOC and World Bank, 2007:25).

Specifically, the ACAMS International Glossary of key Money Laundering Terms and Acronyms (2001), the Wolfsberg Global Anti-Money Laundering Guidelines for private Banking (2001) and Swiss Federal Banking Commission (2001) define politically exposed persons as “individuals holding or having held positions of public trust, such as government officials, senior executives of government corporations, as well as their Families and close associates” (Wolfsberg, 2001:2)

While there is no global definition of a PEP, the Financial Action Task Force (FATF) (2005) issued guidelines in which the term politically exposed Person was defined. The Revised Financial Action Task Force’s (FATF) 40 Recommendations define PEPs as individuals who are or who have been entrusted with prominent public functions in a foreign country for example Head of State or of Government, senior politicians, judicial or military officials. This definition is not intended to cover middle ranking or more junior individuals in the foregoing categories. The FATF document also says that business relationships with family members or close associates of PEPs involve ‘reputational risks similar to those of PEPs themselves.

The Wolfsberg Group (2008) World Compliance (2008) Don Jones (2010) and World Check (2010) add that the term should be understood to include persons whose current or former position can attract publicity beyond the borders of the country concerned and whose financial circumstances may be subjected to additional public interest. In specific cases, local factors in the country concerned, such as the political and social environment, should be considered when deciding whether a person falls within the definition.

UNCAC (20003), FATF and The Third European Union Directives have stretched the definition of PEPs. The former defines PEPs as individuals who are, or have been, entrusted with prominent public functions, and their family members and associates. The latter adds that they are natural persons who are or have been entrusted with prominent public functions and immediate family members, or person known to be close associates of such persons. The under listed examples are intended to serve as aids to interpretation:

- . Head of state government and cabinet ministers
- . Influential functionaries in nationalized industries and government administration;
- . Senior judges
- . Senior party functionaries;
- . Senior and /or influential officials, functionaries and military leaders and people with similar functions in international or supranational organizations;
- . Members of ruling royal families;
- . Senior and /or influential representatives of religions organizations (if these functions are connected with political, judicial, military or administrative responsibilities (Wolfsberg Group, 2008:1).

Through these definitions did not specifically separate foreign and domestic politically exposed persons but have identified guidelines, in which the term politically exposed persons was defined. The interpretation of each of these layers varies from one country to another. Some jurisdictions focused only on foreign political figures. Some countries limit the definition to the national level, some include regionally politically exposed persons. While there might be slight variation of the five layers above, the expectations of an organization doing business with politically exposed persons are universally similar.

The United Kingdom Money Laundry Regulations (2007) define PEP as a “.....persons who is or has, at any time in the proceeding year entrusted with a prominent public function by a state other than the united kingdom, a (European) community institution or an international budget or a family member, known close association of such a person

Section 312 of the USA Patriot Act, Foreign Corrupt Practices Act, United Nations Convention against corruption (2003) among others did not include middle ranking and junior individually in the categories in the above definitions. However, the term PEPs is not used in FinCen’s regulation. According to FinCen’s regulation ,PEPs describes a person who has been entrusted with a prominent public function, or an individual who is closely related to such a person. The Canadian anti-money laundering regulation shows a large degree of overlap with the PEP definitions used in most other countries of the world; and is also comparable to the “senior foreign political figure” as outlined in the USA patriot Act. The Canada PEPF definition is:

Politically exposed foreign person means as a person who or holds has ever held one of the following persons in or behalf of a foreign state.

- a. Head of State or head of government
- b. Member of the executive council or government or member of a legislature;
- c. Deputy minister or equivalent rank
- d. Ambassador or attache or counsellor of an ambassador
- e. Military officer with a rank of General or above;
- f. President of state owned company or a state owned bank;
- g. Head of a government agency;
- h. judge
- i. Leader or president of a political party represented in a legislature; or
- j. Holder of any prescribed office or position (Wikipedia, 2009:1)

This definition includes any prescribed family member of such a person.

Although there is no global definition of PEP, most polities have based their definition on the FATF definition:

- Current or former senior official in the executive, legislature, administrative, military or judicial branch of a foreign government (elected or not)
- A senior official of a major foreign political party;

- A senior executive of a foreign government owned commercial being a corporation, business or other entity formed by or for the benefit of any such individual
- An immediate family member of such individual; meaning spouse, parents, siblings ,or children and spouse's parents or siblings
- Any individual publicly known (or actually known by the relevant financial institution) to be close personal or professional associate.

The Wolfsberg Group (2008) PEPs definition applies to persons who perform important public functions for a state. This definition used by regulators or in governance is usually way general and leaves room for interpretations. For example ,the Swiss Federal Banking Commission in its guidelines on money laundering uses the term “*person occupying an important public function*”, the US interagency guidance uses *senior foreign political figures*” and the BIS paper customer due diligence for bank says “*potentates*”

In real life, it may be difficult to identify someone as PEP; this designation is chiefly aimed at preventing those who have been in a position of authority from making use of their plundering of state funds. Some countries have passed laws aimed at preventing “capital flight”, Nigeria for instance, prohibits its states Governors from holding bank account in other jurisdictions. But the likelihood is that of someone has amassed funds illegally, they will somehow find a way or ways of transferring them out of their country ahead of their own flight: Perhaps even as school fees or pocket money” for a child.

For our purpose, PEPs are individuals who are or have been entrusted with prominent public functions, including members of the executives legislature, judiciary, military administrative officers, appointed local and international officers representing their countries in domestic and international fora and celebrated political, banking and financial institutions and extra-ministerial appointees as well as members of their nuclear and extended families and close associates in a polity who are involved in grand corruption.

Theoretical Perspective

The theoretical foundation of this article is based on the integrated social control theory. Corruption from this perspective is seen as a frequent phenomenon with different degrees, within virtually every country on the planet. The widespread and pervasive nature of corruption is such that demands an integrated approach, given the fact that , it can only be effectively addressed by

using strategies that are comprehensive in nature and successfully integrate reforms with one another and in the broader context of each country's social, legal, political and economic structures. At the international level, it is also understood that many transnational aspects of corruption exist that cannot be effectively dealt with by countries acting alone and will instead require measures developed and implemented by the global community as a whole. As a result, the approach being taken by the Centre for International Crime Prevention now includes not only programmes to assist individual countries, upon request, but also the development of a comprehensive international legal instrument against corruption, which is intended to bring about a high degree of global standardization and integration of anti-corruption measures (see General Assembly resolutions 54/128, 55/61, 55/188 and 56/...).

A broader understanding of the nature of corruption has led those confronted with it to look for more broadly based strategies against it. Strategies should be holistic, addressing all the factors that facilitate or contribute to corruption and all the possible options for measures against it, and integrated, in the sense that, once identified, all of the elements of an anti-corruption strategy must be developed and implemented in mutually consistent and reinforcing ways, avoiding conflicts or inconsistencies. The integrated approach Social control theory to anti-corruption is anchored on the following principles:

- I. **Basic democratic standards:** Democratic reforms are often seen as necessary elements of development projects. In the context of anti-corruption efforts, basic political accountability is seen as an important control on political corruption. Since such corruption usually involves putting individual interest ahead of the public interest, the reaction of voters made aware of such abuses deters them and if abuses do occur allows for the replacement of corrupt politicians in elections;
- II. **A strong civil society:** Generally this includes both the ability to obtain and assess information about areas susceptible to corruption (transparency) and the opportunity to exert influence against corruption where it is found through social control mechanisms. This includes forums such as free communications media, which, in detecting and publicly identifying corruption, create political pressures against it; public budget hearings; civil society control boards; public regulation commissions; and judicial monitoring systems. Such mechanisms are designed to monitor the provision of public services while also assessing the

problem of corruption, assisting in developing countermeasures and providing objective assessments of whether such measures are effective or not;

III. **The rule of law:** The fear of the abuse of power is so great that the locus of power had to be separated among the executive, legislature the judiciary with detailed mandates to check the excesses of each other. This is seen to reduce overall power and ultimately check abuse. It is also in this vein that Dicey (1980:2002) defines the rule of law to mean: The absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness, or prerogative or even wide discretionary authority on the party or government. In support of Dicey's thesis, Sagay (1996) and Enemouo (1999) posit that the rule of law as a principle seeks to curb the excesses of the political authority who are custodians of power ensuring that they exercise this power within the ambit of the laws of the land and not to their whims and caprices. In his treatise, Dicey (1980) identified three principles, which together establish the rule of law. These are principles:

- a) The principle of impartiality
- b) The principle of equality before the law
- c) The right to individual liberty.

IV. **The Principle of Impartiality:** This principle states that no person should be subjected to arbitrary laws. It argues that anybody accused of wrong doing in the society should first be brought to fair trial in a court of law, before being punished if he is found guilty. The principle of equality before the law implies that any person in the society regardless of his social position should be accorded equal treatment under a given law.. This principle simply means that all men should be considered equal before the law. As with many of the controls on corruption, independent courts, accountable legislatures, transparent prosecutorial capacity and an effective police force are all necessary but not sufficient conditions alone to enhance the rule of law. In such an environment, laws can be enacted and enforced ensuring the translation of social preferences into public policies addressing the public and not just the private interests of the powerful and wealthy. This is true for both criminal law safeguards on corruption and for civil proceedings, which are often used to seek financial redress in corruption cases;

- V. **Policy integration:** This includes integration between anti-corruption strategies and other major policy agendas in each country and integration between the efforts of different countries and the international community as a whole. The legislation reinforcing anti-corruption offences, for example, should not conflict with other priorities on the part of the law enforcement officers, prosecutors and judges expected to enforce it.

The above four frameworks, are in turn driven by the principle of transparency in government, which is widely viewed as a necessary condition both for effective control of corruption and more generally for good governance. Social control mechanisms involving the operational participation of prestigious civil society representatives do usually serve that purpose. For example, social control boards monitoring court-related activities have reduced perceptions of occurrences of bribery by 59 per cent over a period of two years in Costa Rica, while police commissions including members of civil society have reduced perceptions of corruption by 78 per cent in San Jose, California, in the United States (see Buscaglia 2000b).

Specifically, the Centre for International Crime Prevention, through its Global Programme against Corruption, facilitates and assists client countries in their attempts to build integrity in order to fight corruption. In fostering collaborative efforts among all stakeholders in a given society, the Global Programme against Corruption helps to determine the shared goals and purpose of government, public and private sectors using national and local integrity workshops. Those goals are identified through a variety of instruments, discussed below, which include comprehensive assessments of corruption, national integrity system workshops, national and local integrity strategies and anticorruption action plans addressing preventive, institutional development, awareness raising and enforcement measures. Each of those instruments is predicated upon broad based participation both to maximize the local “ownership” and to increase the objectivity and relevance of the reform.

It is therefore essential for any anti-corruption strategy to balance awareness rising with enforcement. The message to the public must be that the misuse of public power for private gain is (i) depriving citizens of timely access to government services; (ii) increasing the cost of services; (iii) imposing a “regressive tax” on the poorest (v) a high-risk/low-profit activity (that is, corrupt persons are punishable by jail sentences and fines). The challenge is how best to communicate that message to the population at large; (c) Social control mechanisms are needed in the fight against corruption (Buscaglia 2001b). Those mechanisms must include not only strategic anticorruption

steering committees but also operational watchdogs working within government institutions composed of civil society and government officials working together. Those operational mixed watchdog bodies must cover monitoring and evaluation of local and central government affairs such as budget-related policies, personnel-related matters, public investment planning, complaint matters and public information channels.

The failure of the State to control corrupt practices internally and its failure to impede the “capture” of policy-making bodies by the much vested private and public interests that foster corruption have generated the need to establish civil society safeguards designed to complement the State’s auditing capacities and to monitor specific institutions of the State on an ordinary basis. Such social control mechanisms have normally been focused on budget planning and on areas related to public services.

The social control mechanisms operate as bodies that interact with specific agencies of the public sector and are entrusted with the monitoring of public agencies’ performance and the channelling of suggestions and complaints related to service delivery. Social control mechanisms take the form of internal, and external institutional reforms introduced to address the following areas:

- (a) Simplification of the most common administrative procedures;
- (b) Reduction of the degree of administrative discretion in service delivery;
- (c) Implementation of the citizens’ legal right of access to information within state institutions;
- (d) The monitoring of quality standards in public service delivery through social control mechanisms.

In order to address anti-corruption reforms in a holistic and integrated manner, policy measures based on best international practices has emerged .This can be classified as follows (Langseth 2000b):

Opening up” government to the public by (a) establishing a credible complaints mechanism, all in accordance with the social control experiences; exchanging information on regional and national best practice initiatives; developing, ratifying and incorporating international instruments to encourage and strengthen anti-corruption programmes at the national level, considering the development of a comprehensive United Nations convention against corruption; establishing adequate international monitoring systems to

determine how national systems comply with ratified conventions and protocols. Establishing simplified and transparent competitive public procurement procedures and encouraging the adoption of international rules in this area; Adopting international rules in the area of offshore banking regulations and international investment; Increasing cooperation in the investigative, prosecutorial and judicial realms; Strengthening state institutions by (a) simplifying procedures; (b) improving internal control by applying best practice auditing and accounting standards; and (c) establishing the right incentives and remuneration. Developing and strengthening independent investigative, legislative, judicial and media organizations; providing protective measures for witnesses and whistle-blowers, and providing independent audit and investigative bodies supported by sufficient human and financial resources. (Langseth,2000b)

From both historical and current occurrences of corruption it is evident that it is a problem of a fundamental type to economic as well as political institutions. Thus, viewing corruption as ‘the sale by government officials of government property for personal gain’ and particularly where ‘they charge personally for goods that the state officially owns’ such as the rights to certain activities regulated by the state, or physical property (Tullock, 1989:599). The destructive potential of corruption is now recognised as ‘corruption has two major defects. The first of these is that many government activities are desirable; hence, permitting bribes to get rid of them is undesirable. The second problem is once corruption becomes established in a government; laws may be enacted for the specific purpose of maximizing the bribes available for permitting people to avoid them.’ (Tullock, 1989, p.659)

Placed in the very “fiscal sociology” of state building, people are self-interested individuals in terms of using the institutions of government to promote private ends. People both in the political marketplace and in the economic market act in the same way, and does not change when they move from the marketplace into the political arena, as in both realms they seek to use existing institutions in their own best interests (Buchanan, 1968). Thus social cost of the interest maximizing utility *politician* (McKean, 1968), has led to a vertical -horizontal accountability approach to anti-

corruption, as means by which different agencies of government hold other governmental (and political) actors answerable to the law and the public interest.

The emergent strategy of Politically Exposed Persons (PEPs) ‘vertical -horizontal accountability mechanism through which different agencies of government hold other governmental (and political) actors answerable to the law and the public interest, and citizens, from below, hold their government officials answerable for their conduct’ (Diamond, 2004: 227). Thus, PEPs as defined by various agencies such as (World Bank, 2007:25); the ACAMS International Glossary of key Money Laundering Terms and Acronyms (2001), the Wolfsberg Global Anti-Money Laundering Guidelines for private Banking (2001) and Swiss Federal Banking Commission (2001); The Wolfsberg Group (2008) ;World Compliance (2008) ;Don Jones (2010) and World Check (2010) is chiefly aimed at preventing those who have been in a position of authority from making use of their plundering of state funds. Some countries have passed laws aimed at preventing “capital flight”, including Nigeria, which for instance for instance, prohibits its states Governors from holding bank account in other jurisdictions.

Viewed from this angle, Politically Exposed Persons (PEPs) is an aspect of external accountability, by which international actors use their influence and leverage to make states answerable for the quality of their governance and to press or induce them to adopt institutional reforms (implementing or straightening horizontal and vertical accountability) to improve governance which is sine qua non to development.

Politically-exposed Persons and EFCC in Post April 2011 Election: An Analysis

A Good number of Nigerians TELL interviewed recently would not take the job of Farida Waziri, former Chairperson of the Economic and Financial Crimes Commission, EFCC, if President Goodluck Jonathan offered it to them. This came as a shock in a week that the lawyer and retired assistant inspector general of police was the most visible government personality in the news as she arraigned three former governors in court on corruption charges.

argues and had one other on the leash. To these cynics, it was all a charade to deceive the public and international community that the Nigerian government is fighting corruption and they would soon be free to enjoy their loot, like their predecessors who had been on trial since 2007 without any judicial progress on their cases.

Waziri and her EFCC could be likened to the provided fowl, which says that her shouting is not for its captor to free it but for the world to hear its voice. Under this construct, it is believed by many that the Commission can only have its say but the government will eventually have its way on who gets convicted or not.

In other climes, EFCC could be said to have a solid case against many former governors. As at last October, the investigation against Gbenga Daniel, Ogun; Alao Akala, Oyo, Akwe Doma, Nasarawa; and Danjuma Goje, Gombe had been concluded and the anti-graft agency was ready to prosecute their cases. While Daniel and Akala Were arraigned recently in Abeokuta and Ibadan respectively, where they were, till May 29 lords of the manor, Goje and Doma, had theirs a week after. If all things remain constant, as mathematicians say, more former governors will soon have their days in court. But whether anything will come out of it is another issue entirely.

The charges against the suspects appear weighty indeed. If proved, they would further confirm that the pen is mightier than the sword, because the ex-governors would have used their biros to achieve a feat no armed robber in Nigerian could have boasted of with a gun. Daniel is alleged to have stolen over N58.5bn between 2004 and May 2011 when he was governor of Ogun State. The amount, it is further alleged, includes the sum of N3.9 billion of look as loan barely five months in his exist from government.

A day earlier, on Tuesday, October 11, EFCC had arraigned Alao-Akala, Former governor of Oyo State: Hosea Agbola a serving senator and former Oyo State Commissioner for local government and chieftaincy matters; and Olufemi Babalola, owner of Pentagon Engineering Service at an Oyo State high court for allegedly defrauding the state of over N11 billion during Alao-Akala's Tenure as governor. The trio are alleged to have conspired to award contracts of about N8.5 billion for road construction in the 33 local government areas of the state without budgetary appropriation. Secondly Alao-Akala and Agboola also conspired and awarded another contract of over N2.27 billion for the supply of 33 drilling machines to the 33 local government councils in the state.

Doma and Goje were docked later in October. While Doma was arraigned in the Federal Capital Territory, FCT, Goje who is now a senator was arraigned in Gombe. Although details of their alleged offences are still undisclosed, the TELL magazine gathered that the EFCC may charge Doma and nine other persons for defrauding Nasarawa state of about N28 billion during his tenure as governor. This includes an alleged diversion of \$ 90 millions returned form Paris Club on January 4,

2008. The money was allegedly shared among his cronies including N1.5billion paid to a construction company.

Goje and four others will be tried for allegations of mismanagement and diversion of over N52 billion state funds between May 2003 and May 2011. The money was allegedly siphoned from various sources, especially the Universal Basic Education Commission, UBEC, the State Universal Basic Education Board and Statutory allocations to local governments in the state.

The question on the lips of many Nigerians is, after arraignment, what next? The confidence exude by the suspect as they were arraigned indicate either their innocence or their assurance that the trial is just a formality. Daniel had his trademark smile permanently on with his supporters cheering him as if he was walking up the podium to be conferred with a Nobel prize. Alao-Akala exhibited the same audacity. Such confidence may not be without foundation. Between 2007 and 2010, EFCC had charged to various courts many ex-governors and high profile politically exposed persons notorious for alleged looting of public treasury but the commission has not made appreciable progress because the suspects, aware that they have bad cases, are buying perpetual adjournments from an apparently compromised judiciary.

According to Cynics, given the fact that those on trial since 2007 are still at the preliminary stages of the court processes, those just being arraigned do not have much to worry about. They feel that the sudden revival of the anti-corruption war by government is just another political tool to give the impression that government is fighting corruption and win the respect of the international community. In this regard Jonathan is under pressure on two fronts-local and international. Locally, his rating is plummeting as disillusionment sets in after a popular victory at the April presidential election is not being matched with radical policies and programmes that could bring an immediate turnaround. With unemployment at 19.7 percent, inflation rate at 11.1 percent and income shock anticipated from January 2012 when government has scheduled to remove petroleum subsidy, there is a social crisis in the middle and lower class families and this may worsen.

One of the areas the Nigerian Masses are passionate about is the anti-corruption war. They feel that the country is rich enough for them to have a decent living, if not for the mindless looting of the Common wealth by politicians since 1999. Jonathan promised to fight corruption and the people expected him to have started on May 29, 2011. Even the suspects expected him to. That was why some of the ex-governors ran away before that day and allowed their deputies to hand over to their

successors. However, they soon returned to celebrate their luck as the anti-corruption agencies may have been dissuaded from going after them.

Some people are of the view that Jonathan could not go after them immediately because of the political debt he incurred in his presidential bid. Having lost in the bid to dislodge the then governors as the power-brokers in their respective states Jonathan bowed to their power and manipulation too. Though it has been severally denied by the Presidency, it is highly suspected that he cut a sweetheart deal with governors across the geo-political zones to throw the anticorruption fight away in exchange for their support.

Instead of jiggling up the anti-corruption war after the election, the federal government, using the ministry of justice, appeared to be stalling the crusade to appease the political class. Mohammed Adoke, attorney-general and minister of justice, issued guidelines for the conduct of EFCC, effectively subordinating the commission to the ministry, which is supposed to be independent of the political whims and caprices of government. The implication is that only the enemies of government get tried and possibly convicted. For EFCC to prosecute any case currently, the AG must endorse the file. Furthermore, he has the power to take over any case he has interest in. This has eroded the confidence that Jonathan is a change agent as he appeared more as a man fighting to secure his office than a crusader. Adoke has so far exercised his power by withdrawing three case files from EFCC. Those cases concern politicians and friends of government.

An example is the Vincent Ogbulafor case. When Ogbulafor, a former chairman of the People Democratic Party, PDP, was hounded out of power by Jonathan on the allegation of corruption when he was a Minister, many people thought the President had a zero tolerance for corruption. However, subsequent events soon dampened this expectation. As soon as Ogbulafor accepted the inevitable and resigned for a new chairman amenable to Jonathan's presidential bid, the corruption case against him petered out. Subsequent events also showed that Ogbulafor committed political suicide by innocently saying the north would complete Umar Yar'Adua's tenure till 2015, after which it would be the turn of the Igbo. To get rid of him, a corruption case against him, which had been lying fallow since 2003, was revisited with a lot of urgency.

Alarm began to ring in the hearts of some PDP stalwarts when Haliru Mohammed stayed on as PDP deputy national chairman. It was assumed he would be made to resign like Ogbulafor as too had allegations of corruption against him. As he was useful to the government and has the right connection at the ministry of justice, his name was withdrawn for alleged lack of evidence. When he was made

minister of defence, it defined the philosophy of the Jonathan administration towards integrity in public office. Though Mohammed had not been convinced by any court, the feeling was that a government more sensitive about public perception would have eased him out of office, giving the indictment of the international components of the bribery scandal.

The attitude of the Jonathan administration to anti-corruption campaign was again underscored by the fate that befell the Independent Corrupt Practice and other Related Offences Commission, ICPC, after the departure of justice Emmanuel Ayoola as chairman in November 2010. Ayoola, an international jurist and a retired justice of the Supreme Court, and Waziri his EFCC anti-Corruption case in courts across the country without the government and the National Assembly doing anything effective to ease the challenges confronting them. The National Assembly, many of whose distinguished and honorable members are being tired by the agencies crippled them with poor budgetary allocations and stalled the amendments of their acts that would have made them more efficient. Justice Ayoola declined reappointment when his first term expired, probably out of frustration.

When Uriah Angulu, the acting chairman of ICPC after Ayoola, tired to step up the tempo of investigation, he was removed on flimsy technical ground about his being not qualified to be acting chairman under that Act. This reason was proved a lie by subsequent replacements. Angulu's real offence might have been his desire to go after a corruption case at the National Judiciary Institute Chaired by Justice of Nigeria had advised him to remained. So, he was fired, ostensibly by the attorney-general. Nothing in the ICPC Act empowers the AG to sack its officers. The presidency maintained a loud silence while all that happened, meaning that the AG had their support. Silence then ICPC has been without a substantive chairman, which has left their side of the anti-corruption war in limbo. Ayoola may have been the last chairman of ICPC as there is plan to merge it with the EFCC.

The lack of firepower in the anti-corruption was not lost on the international community, which supported Jonathan during the election and during his travails at the time of Yar' Adua's illness. The United States, US. Wants reforms in the with the wishes of the people of Nigeria as President Barack Obama wants the Nigerian government to fight corruption and enthrone good governance in order to continue enjoying the support of the U.S. The United State Kingdom, European Union, World Bank and the International Monetary Fund, IMF, key stakeholders that

Nigeria needs as she tries to pull out of the woods for second time and they want the country to operate according to global best practices.

Bringing Ngozi Okonjo –Iweala back as minister of finance and co-coordinator of the economy also include a desire to fight corruption. Seeing her as the real threat to corruption, there has been pressure on her to bail out and allow the government to crash on the alter of greed and corruption. She has since called their bluff, and insists that Nigeria belongs to everybody. She has also buoyed up the anti- corruption war in government’s ministries, MDAs departments and agencies by bringing transparency in the management of public fund. She insists on publishing the monthly allocations to states and local government so that the public can monitor governance. It was gathered that she would quit the government if it pays lip service to anti corruption. If she leaves, Jonathan’s government will lose face. He may therefore likely find a middle point between doing enough to send his political friends to jail.

The government is also desperate to attack foreign investors. Without the expected influx of Foreign Direct Investment, FDI into the country, the Vision 20 2020 will remain a pip dream. Even the very critical power reform is predicted on the participation of the private sector. For instance, Nigeria needs to invest \$ 35 billion in the next 10 years to meet the power component of vision 20 2020, which targets 40,000MW daily. The bulk of that money is expected to come from the private sector. According to captains of industry, no serious businessman will put his capital where there is no transparency and good corporate governance. So if the government wants FDIs, Jonathan must not only fight corruption but must seen to be fighting it.

At the recently concluded Nigeria investment Summit and Exhibition in New York Jonathan told international investors that EFCC has done excellently well in the discharge of its mandate and still breaking new grounds in cleaning the Augean stables and make the system conducive for local and foreign investments to thrive. “core investors can rest assured that their investments are safe in Nigeria and fraudsters pose no threat again because the EFCC has almost eradicated the problem of advance fee fraud in our country... A lot of people are impatient over some of these case in court but not many of them understand that these things take time and that when EFCC files charges in court, it has done its bit and more than 50 percent is in the hand of the judiciary[Eme and Oko,2011:55]

With the buck passed to the judiciary many have called on the third arm of government to brace up. For instance, stakeholders at the just concluded National Seminar on Economic Crimes called on the nation’s judiciary to fast track the trial of persons accused of corrupt practices.

Participants expressed worries over “prolonged delay in the tired of corruption”[Agbo and Imasunu,2011:47] Saying it is creating doubt in the mind of the public as to the sincere commitment of the relevant stakeholders the anti corruption crusade.

The communiqué expressed regrets that Nigeria is yet to imbibe the current global trend in legislation as it relates to extra territoriality of anti corruption regimes which favours a more aggressive approach that targets the individuals within corporate entities, their accomplices wherever they are in the world as enunciated in the US Foreign Corrupt Practices Act (FCPA) and the UK: Anti Bribery Act. It also noted that law enforcement and anti corruption agencies in the country are not making adequate use of the Nigerian Financial Intelligence Unit in investigating and persecuting their cases[Agbo and Imasunu]. Be that it may, how far can Jonathan go against corruption given local and political imperatives? Not very far, critics say. He has a lot of political IOUs to settle. Though his lack of interest in the 2015 election has removed a lot of pressure from him, he still has the moral responsibility to ensure he is not the last PDP president. Even in his declining popularity, Jonathan is still more popular than his party. Again, like others before him, he may want to have a say over who succeeds him

In his regard, some politicians feel that the resurgence of the EFCC campaign against ex-governors may have some political undertones ahead of the 2015 general elections. The move against Goje may be case in point. He is known to have presidential ambition and is in the Senate to add a feather to his cap in many power circles, and even among the public, he is largely seen to have performed very well as the governor of Gombe State. It is alleged that those who see him as a possible contender for the PDP presidential ticket in 2015 will like to dent his image by showing him to be corrupt in addition, the Goje camp feels that Waziri may have a little axe to grind with Goje. Ajuji Waziri, the former EFCC chairperson's spouse, who replaced the late Tawar Umbi Wada at the Senate, could not return to the Red Chamber in June. Goje who was a sitting governor at the time prevented him from returning to the Senate and instead supported his opponent to win the PDP primaries

However, EFCC has dismissed this as a non issue. According to Femi Babafemi, the commission's spokesman, “Accusation that he's being persecuted politically is an impotent blackmail. The one is on him to defend himself against the criminal charges against him. Did he do them or not? What has the politics of Gombe State got to do with the work of EFCC? That accusation is illogical and of no relevance to a criminal prosecution?” [Agbo and

Imasunu,2011:47]. A lot of critics share Babafemi's view. Politics or no politics the courts should try the cases summarily and decide who is guilty and who is not. But the accusations refuse to go away. For instance, Bola Tinubu, former governor of Lagos State and leader of the opposition Action Congress in Nigeria, ACN who was recently put in the dock in Abuja by the Code of Conduct Tribunal, CCT, for the alleged infringement on his oath of office. Alleges political harassment by the government on the suspicion of his relationship with the suspended President of the Court of Appeal Justice Ayo Salami. The Crackdown on the editors of the Nation Newspaper recently is suspected to be a follow up on Tinubu's arraignment. The hypocrisy of Tinubu's dock, the prosecution said the charges were not ready. This is highly unlikely of a well publicized high profile case. About 11 other ex-governors are said to be on the line for CCT. However, it is believed that if Tinubu who now appears as the arrowhead of opposition and his fellow travelers in the CCB manifest fade away.

Daniel also alleges political persecution "Otunba Daniel, as a law abiding citizen, expects the agency situation. He remains confident that he would be vindicated as the petitions written against him and which may have formed the basis of the invitation by the EFCC are politically motivated. We believe that at the end of the day the truth will prevail, stated Adegbenro Adebajo, his former chief press secretary last October[Agbo and Imasunu,2011:47].

Another case in point is that of Ikedi Ohakim of Imo State Despite the loads of corruption allegation against him, it is feared that Waziri may never go after him or if she does, will let him get away slightly. Smart Ohakim is alleged to have planned ahead of the rainy day and is now reaping the dividends.

This still makes the all important anti- corruption war a family affair. If you are found in the wrong affection of government you put on trial for your sins. If you behave yourself, the charges against you just fade away through perpetual adjournment. It government is really serious about ending corruption.

REVAMPING THE WAR AGAINST GRAFT

While the debate has been laid to rest as to if President Goodluck Jonathan conformed with the extent law in relieving Mrs. Farida Waziri of her duty as chairman of the Economic and Financial Crimes Commissions, there can be no doubt that it was a popular decision. For, as far as most Nigerians and critical stakeholders in the international community were concerned, EFCC

under Mrs. Waziri appeared either weak or too heavily compromised to effectively fight corruption. The consensus today therefore is that the president made the right call.

As far back as 2009, while on a visit to Nigeria, United States Secretary of State, Mrs. Hilary Clinton, had echoed the sentiment of most Nigerians at a town hall meeting in Abuja; She wants to see the reinstatement of a vigorous corruption commission. The EFCC which was doing well has kind of fallen off in the last one year. She posited that she will like to see it come back to business to be able to partner with the United States.

While we endorse Mrs. Waziri's removal, we must nonetheless deplore the manner in which it was done. We believe that courtesy demanded that she ought to have been properly informed rather than hear it from the media as was the case. That notwithstanding, with her ouster, the war against graft should be reinvigorated. Mr. Ibrahim Lamorde, the foundation EFCC Director of Operations, who had also been acting chairman in the past, has again been appointed to act pending Senate Confirmation. We view his appointment as the right decision and ask that his confirmation process be sorted out quickly.

The first task before Mr. Lamorde is to restore EFCC' credibility and correct some of the lapses that have in recent years caused many people to lose faith in the Commission. In a recent This Day Editorial, it pointed out that rather than fight corruption EFCC has become notorious for planting salacious stories in the media against certain political office holders it either has no credible evidence to successfully prosecute or unwilling to bring to justice. All that the EFCC has been doing over the years is to periodically entertain the corruption without securing any serious conviction, we wrote. We also admonished that rather than resort to media trials, what Nigerians expected of EFCC was to ensure that those who fleeced the country and its people of their resources should their day in court and be made to pay for their infractions.

Now that Lamorde is back as helmsman EFCC, it is hoped that the commission will go back to its original ideals and begin go seriously combat corruption. While not making excuses for our judiciary which has its own serious challenges, the EFCC cannot be exculpated from the tardiness and utter disregard for due process that characterized its inability to secure conviction of high profile suspects as most of their futile attempts resulted from poor preparations and presentation of cases for reason of incompetence or deliberate attempts to scuttle trials.

The EFCC must also review its plea-bargain option that is now very much tainted. Ordinarily, we have no problem with restitution for crimes committed and it is cost effective if those

who loot the treasury are ready to part with their stolen wealth for a lighter punishment. But such offenders must also be commensurate with the crime, not a slap on the wrist. Against the background that the Federal government alone accounts for 52 percent of the allocation from the federation account, in contrast to 35 percent allocated to the 36 states, the EFCCs disproportionate interest in governors without beaming its searchlight on federal institutions creates the impression that the commission is an instrument of blackmail by the presidency against the states. This perception has to change.

Furthermore, the National Assembly should start the amendment of the EFCC and ICPC Acts to strengthen the agencies to independently fight corruption. It makes a mockery of the Acts establishing the commission to watch Waziri carry files to the justice ministry for Adoke to vet. Finally, government should lobby the National Assembly to establish a Special Court to try corruption cases and reducing the effects of massive corruption in the judiciary

Conclusion

The advent of Economic and Financial Crimes Commission (EFCC) in 2004 was accompanied by the rolling out of the drums. In virtually all corners of the Nigeria landscape, the loud din from those trumpeting the arrival of the body and the attendant benefit therein could be heard. Here comes the much-awaited salvation of the populace of the country have been yearning for. The ulution, naturally, not far fetched. What with the havoc corruption had wreaked in the country and the grounds well of a opinion that any blow on the phenomenon would not only introduce a new paradigm in the polity, but destroy the monster, which had destroyed all the attempts the country had been making to join the rest of the progressive world. Thereafter, many had settled down to watch the expected requiem sung on official corruption, as captured in the mindless looting of the public fund by public official. They had waited for the epoch those they believe or suspect to be behind these crimes would stand, head bowed in law court, from where they are suppose to enter the Black Maria for that symbolic ride to jail. There is no telling the fact the wait is still or on, close to a decade after. Instead of corruption abating it is increasing. Sadly, though with a clearly equipped arsenal to achieve spelt out goals, the EFCC allowed the enemy virus, which has previously destroyed the fabrics of the polity to creep into it operations. Thus, instead of a steely approach towards fighting crimes, the agency became a clay-footed organ that hardly get anything done. Pioneer chairman, Nuhu Ribadu, has shown the direction of the body would go when, like an attack dog for Obasanjo, he began arresting enemies of the former President. Particularly, those not

agreeable to his third term bid, anti-climaxing in the odious impeachment of state governors without the mandatory two-third majority required by the 1999 Constitution. Last November, his replacement, Farida Waziri, like Ribadu, was unceremoniously removed from office, for reasons observes believes could also not be different from the sins of her predecessor-, more excuses than effectiveness.

Only when those responsible for the sustained impoverishment of a rich nation like Nigeria start paying through a quick conviction and appropriate long sentences will the global community believe that the nation is serious about the anti corruption war. For now, it is so easy to see through the comedy of arraignment and cameo trials. We therefore call on Mr. Lamorde to do everything within his power to restore the integrity of the EFCC and quickly regain the confidence of both Nigerians and the international community.

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