

**AN ANALYSIS OF GRAND CORRUPTION AND ANTI-CORRUPTION
INSTITUTIONS IN NIGERIA AND KENYA; 1960-2015**

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DECLARATION

This is my original work and has not been presented for a degree in any other University.

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DEDICATION

To my children, Jane and Gabriel, that you will surpass all my achievements and overcome every challenge you face in life.

To my Mother, Professor Rahila Plangnan Gowon, for inspiring and supporting your children academically.

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LIST OF ABBREVIATIONS AND ACRONYMS

AECEA:	Anti-Corruption and Economic Crimes Act
AU:	African Union
CCB:	Code of Conduct Bureau
CPI:	Corruption Perception Index
EAC:	East African Community
EACC:	Ethics and Anti-Corruption Commission
ECOMOG:	Economic Community of West African States Monitoring Group
ECOWAS:	Economic Community of West African States
EFCC:	Economic and Financial Crimes Commission of Nigeria
ICPC:	Independent Corrupt Practices and Other Related Offences Commission
KACC:	Kenya Anti-Corruption Commission
KANU:	Kenya African National Union
NARC:	National Rainbow Coalition
TI:	Transparency International
UN:	United Nations
UNCAC:	United Nations Conventions against Corruption
UNDP:	United Nations Development program

OPERATIONAL DEFINITION OF TERMS

Corruption: the abuse of entrusted authority for private, personal and collective gain without accountability.

Democracy: A system of government in which the supreme power is vested by the people and exercised by them directly or indirectly through a system of representation usually involving periodic and free election.

Ethnicity: The use of ethnic affiliation and ties to make a group of people to align themselves together at the expense of other groups.

Grand Corruption: The misuse of public funds or the abuse of power by senior officials or the political leaders for personal gain or political purpose.

Governance: The legitimate exercise of political, economic and administrative authority to manage national affairs.

Initiatives: The plan, policies and programs that were undertaken by the government in Nigeria and Kenya to fight corruption.

Institutions: An organization, establishment or foundation devoted to the promotion of a cause or program, especially one of a public importance.

Neopatrimonialism: A system in which individuals hold positions in government institutions with powers that are officially distinct but exercise those powers as private ownership not public service.

ABSTRACT

Unlike in the past when it was perceived as a political issue, corruption is now considered as a global threat and a major obstacle to development. While corruption is a global problem, it is one of the greatest challenges that Africa is grappling with. With ratings as the most corrupt country in 1996, 1997, and 2000, Nigeria has been infamously popular for corruption. Although Kenya has not been rated as the most corrupt country like Nigeria, it has equally performed dismissably on global corruption perception surveys. Owing to international and local demands for national governments to take punitive actions in fighting corruption, the two countries like their African counterparts have established arrays of national anti-corruption institutions as antidotes to tackling the problem of corruption. In spite of the foregoing, new corruption scandals are continually reported. The study seeks to interrogate the role of anti-corruption institutions Nigeria and Kenya in fighting grand corruption with particular focus on the EFCC of Nigeria and Kenya's EACC. The parliament in Nigeria and Kenya passed the anti-graft laws in 2003 thereby justifying the basis for the comparison. Apart from being both multi ethnic ex-colonies of Britain that gained independence during the 1960's, Nigeria and Kenya also occupy strategic socio-economic positions in their respective regions. The utility of this study is to unravel how the institutional frameworks in both countries have curbed grand corruption and identify lessons that could be learnt from their experiences. The study examines the manifestations of grand corruption in Nigeria and Kenya and political forces that abate the perpetuation of corrupt practices in both countries. It interrogates the measures that have been put in place by EFCC and EACC to tackle grand corruption and the challenges encountered by the institutions. The Study was guided by the Neopatrimonialism Theory and the Structural Functionalist Theory. Both primary and secondary data were used in the survey with a qualitative approach. An analytical research design was applied in the study. Purposive and snowballing sampling techniques were used in selecting the research participants. The findings indicate that Nigeria and Kenya manifest similar forms of corruption by government officials using similar rent-seeking and money-laundering practices. While the range of opportunities for corruption is broader in Nigeria than in Kenya because Nigeria's main economic asset petroleum is state-owned, the processes of converting public to private assets are largely the same. The findings also maintain that donor pressure and the need for international funding was central to the establishment of anti-corruption institutions in post-colonial Kenya and Nigeria's present democratic dispensation. The public awareness and education initiatives of the institutions have the most significant impact as a large segment of the society is now aware of the bane of corruption. It concludes that the EFCC has been able to achieve more in prosecution because of its prosecutorial power, broader mandate and political support in its early years of establishment. This led to an improvement in Nigeria's profile in the corruption perception index. However, prosecution of senior public officials is minimal. Both commissions are faced with challenges that include poor funding, weak legal framework, lack of independence and low political will in fighting corruption. The study thus recommends the development of strong and independent institutions such as the judiciary, and courts, a vibrant civil society, political commitment and ethical change in attitude towards corruption.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Efforts to fight corruption have gained increasing awareness in the international community and discourses in social science after the cold war. This was backed with formation of initiatives at the international and regional platforms including the United Nations (UN) Convention against Transnational Organized Crimes, the UN Convention against Corruption and Combatting Corruption and the African Union Convention on Preventing and Combatting Corruption (Global Coalition for Africa, 2007; Azubuike, 2008; Amukowa;2013).

In the past, corruption was not considered a significant challenge for developed and developing countries nor a subject of academic discourse. The IMF and World Bank's focus was to fight poverty and not corruption which was perceived as a political, not an economic issue (Ackerman 1999; Wrong, 2009). Corruption was often disregarded in countries that were perceived important to Western interest. It was of minor significance compared to promotion or pursuance of the Cold War even if it involved autocratic regimes (Ackerman, 1999; Brown, 2003; Enweremadu; 2012).

The passage of time gave rise to the realization that financial transparency, human rights and institutional checks and balances mattered more to the quest for a country's development than had been previously recognized (Wrong, 2009;

Enweremadu, 2012). Also, after the cold war ended and the Soviet Union collapsed, the wave of democratization created an open political space that regarded as the second launch of Africa's liberation (Ake, 1982; Olukoshi, 1998; Oloo and Oyugi, 2002). Immediately after the attainment of independence by most of the African countries in the late 1950's and early 60's, the populace had high hopes as their new leaders declared their commitment to prioritizing the fight against poverty, ignorance and disease. At the early period, there was a fairly broad moral and human discourse by leaders such as Julius Nyerere, Senghor, Keneth Kaunda, Houphouet Boigny amongst others (Mamdani, 1996; Kwaka et al, 2011).

Disillusion however set in with several corruption scandals reported in the international community by the ruling class at the detriment of equitable development (Bayart, 1999; Brown, 2003). This lowered the expectation that liberalization could enhance development and promote good governance. It also produced different inquires by countries and scholars on the issue of corruption that was previously ignored and viewed as political or controversial (Heywood, 1997; Throup and Hornsby 1998).

The often-ignored effects of western donor's policies including the structural adjustment program which was aimed at opening the African continent to the forces of economic globalization rather indirectly resulted in the rise of corruption in many countries (Brown, 2003). Bayart (1999) argued that liberalization had weakened and criminalized the African state thus creating situations where leaders struggle to maintain control over society and hence resort to extreme measures such as nepotism, corruption and patronage to maintain authority. The Global Coalition for Africa (1997) pointed that political systems with democratic structures and free

economies offer better opportunities to control corruption, while the freedom following political liberalization makes corruption more obvious. A case of this was shown in Senegal and Mali where economic reforms and payment of adequate salaries appeared to have contributed to reduction of corruption and fraud (Heywood, 1997). Yet the same economic liberalization is partly responsible for the increase of grand and petty corruption in Tanzania (Diamond, 1995; Ittner, 2009).

According to Ayittey (2006) and Ikubaje (2013), the African State has evolved into a predatory state that uses intricate systems of control and regulations to rob the masses and productive class. As Nyong'o (1989); Anassi, (2004); & Fagdebo (2007), Dike (2008) noted, it is common for senior public officials in Africa to raid the treasury and deposit in foreign banks and also misuse their positions in government to inflate contracts and award same to their friends for kickbacks. Even though few countries like Botswana and Rwanda are making progress in fighting corruption, it is still a major challenge for many African countries (Ittner, 2009; Ikubaje, 2013). These challenges of governance have produced an environment that causes political instability, increasing unemployment and poverty, and series of social and economic crises.

While corruption is widespread and no single country in the world is completely free of corruption, it is one of the major development and governance challenges that confronts Africa (Olukoshi, 1998; UN, 2000; Global Coalition for Africa, 2007; TI, 2015; Moyosore, 2015). The African Governance Report in 2005 noted that besides poverty and unemployment, corruption is the most serious challenge of African nations. Similarly, the Regional Anti-Corruption Program in Africa, (2011) argued that corruption has destructive consequences on the advancement and progress of

the African Continent. It encourages the misallocation and misappropriation of limited resources, weakens public institutions and undermines the rule of law and accountability.

Corruption, often defined as the abuse of power for private gain (Johnston, 1996), is a global problem that can occur at national and international levels with severe consequences specifically for developing countries. Grand corruption on the other hand involves the abuse of high level power that benefits a few at the detriment of many (TI, 2016). While its perception differs from one place to another, the acts of grand corruption include: misappropriation of funds, diverting funds by falsifying financial records, awarding contracts public to friends and families, fraud, bribery, extortion, rigging of elections and ethnicity (Chweya et al 2005; Morris, 2011; Ogbeidi, 2012).

The Transparency International report for 2015 indicated that 40 of the 46 African countries covered show a serious corruption problem. Kenya and Nigeria were listed among the 40 countries confronted with high levels of corruption (TI, 2015). In 2013, Nigeria, Kenya, Azerbaijan, Nepal, and Pakistan ranked 139th out of 176 countries for corruption. Reports of grand corruption in the two countries also involves the stealing of public resources by senior government officials through similar money laundering and rent seeking procedures (Lawson, 2009.)

Though is endowed with natural resources and has been exporting crude oil for almost four decades, it has been unable to harness this potential to promote sustainable development and good governance (Achebe, 1983; Farida, 2011; Ikubaje, 2013). Rather, its wealth is withering away without improvement in living

conditions of many of the populace because corruption is manifested in the different arms of government and most government businesses such as collection of public revenue, award of contracts, contracts, allocation of resources. (UN, 2000; Ribadu, 2006; Fagbadebo, 2007; Okolo et al, 2014). The theft and embezzlement of state funds has negatively damaged the reputation of Nigeria and led to its negative perception as a dysfunctional and mismanaged country. Diamond (1995) noted that Nigeria which was once admired for its bountiful economic prospects, democratic pluralism, rapid educational expansion is now infamously known for endemic corruption.

Like Nigeria, Kenya also manifests serious corruption challenges. The country which was perceived as a miracle in Africa for its fast economic growth in the 1960's and early 70's later stagnated because the post-colonial leaders allowed corruption to grow while they were pre-occupied with consolidating political power and correcting perceived ethnic imbalances (Oloo & Oyugi, 2002; Anassi, 2004; Amutabi, 2009). The politics of patronage encourages the struggle for more resources that would be needed to maintain political power.

The crises of governance in Africa had attracted the attention of scholars who desired to understand and explain the bane of corruption in their studies. As Nyong'o, (1989); Oyugi, (2003); Amutabi (2009); and Murunga & Nasong'o (2007) maintained that power in Kenya is mostly regarded as an ethnic resource so allocations are tilted to favor those who control power and their supporters. Hyun (2015) undertook comparative study of the strategies of controlling corruption in the Police service of Korea and Kenya. His study argued that the policies aimed at tackling corruption in Kenya specifically in the police sector have not been

effective. Further studies that also researched on the anti-corruption struggle in Kenya like that of Anassi (2004); Oloo (2008); (Ochola) 2009; Gathii (2009) and Wrong (2009) asserted that the economic condition in Kenya deteriorated because the government failed to control corruption.

In the case of Nigeria, earlier studies of Diamond (1995); Adedeji; (1998); Olukoshi (1998) and Ake (2000) on governance in Africa, analysed with concern the way those in power use state resources and coercion to promote their interests. This was especially during the military regimes that were notorious for corruption and abuse of human rights. Recent studies of Mbaku (2000); Dike (2003); Ikubaje (2005); Ogbeidi (2012) and Enweremadu (2012) focused on the fight against corruption in the fourth republic of Nigeria after series of interrupted civilian regime. They observed that despite Nigeria's return to multiparty democracy, corruption is still a major governance crisis.

Despite the wealth of literature on corruption management in Africa, adequate attention has not been given to the anti-corruption institutions that are constitutionally mandated to spearhead the fight against grand corruption especially from Western and Eastern Africa. It is against this background that the study intends to investigate the anti-corruption initiatives in Nigeria and Kenya, with particular reference to the EFCC and EACC and how they have changed over time.

1.2 Statement of the Problem

Nigeria and Kenya Nigeria have been confronted with high profile and endemic corruption in the past and recent years. The persistence of corruption and

manipulation of state resources for personal gains by the ruling elites invariably reduce the quality of living conditions of the populace and constrict the countries overall prospect for development.

Apart from the increasing anti-corruption initiatives at international platforms, Nigeria and Kenya made anti-corruption declarations and established arrays of national anti-corruption institutions as antidotes to tackling the problem of corruption. Despite these efforts, corruption seems to be resistant to the reform measures that have been put in place to combat it as cases of corruption are regularly being reported in both countries and the officials charged with corruption continue to operate with impunity. This situation leads to an in-depth questioning of the effectiveness of the institutional frameworks that have been put in place to tackle corruption and the role of political influences in frustrating the institutions and abating corrupt practices.

This study therefore attempted to explain why grand corruption continues to thrive in Nigeria and Kenya despite the existence of institutions for fighting and the combatting same. The study began by examining how grand corruption has been manifested in both countries from the post-colonial period to 2015. The study also analyzed the efforts made by the two countries in fighting corruption before the establishment of the EFCC, an anti-corruption institution established in Nigeria in 2003 and EACC of Kenya in 2011. It further examined the performance of the anti-corruption institution. As a conclusion, the study appraised the challenges faced by the institutions and lessons that could be derived from their efforts in fighting corruption.

1.3 Research Questions

The study was guided by the following research questions:

- i. How has grand corruption manifested itself in Nigeria and Kenya from 1960-2015?
- ii. What attempts have the governments in Nigeria and Kenya made to fight corruption since 1960?
- iii. How effective are the measures put in place by the EFCC and EACC to curb corruption?
- iv. What are the challenges and lessons for the anti-corruption institutions in fighting corruption?

1.4 Research Objectives

The research had four objectives:

- i. To investigate the manifestations of grand corruption in Nigeria and Kenya between 1960-2015
- ii. To interrogate the attempts made by the government in Nigeria and Kenya to fight corruption since 1960.
- iii. To examine the effectiveness of measures put in place by the EFCC and EACC to curb corruption.
- iv. To investigate the challenges and lessons for the anti-corruption institutions in fighting corruption.

1.5 Research Assumptions

The study assumed that:

- i. Nigeria and Kenya manifested similar forms of grand corruption since 1960.
- ii. Domestic and International donor pressure motivated the efforts made by the governments in Nigeria and Kenya and Kenya to fight corruption.
- iii. The measures put in by the EFCC in Nigeria and EACC in Kenya have not been effective in curbing corruption.
- iv. Comparing the challenges and lessons in fighting corruption in Nigeria and Kenya can add to effective policy guidelines for anti-corruption efforts in Africa.

1.6 Justification and Significance of the Study

In recent corruption perception surveys and indices, Nigeria and Kenya are perceived as having high corruption profiles on the African continent (Amutabi, 2009; EFCC Report 2014; EACC Report, 2014; Afro Barometer Report, 2015; Corruption Perception Index 1999-2015). Hence, addressing the problem of corruption has become a development priority for both countries.

Scholars from various disciplines who examined African politics and development have sought to explain the nature and challenges of corruption in Africa Rose Ackerman, (1999); Diamond, (1995); Olukoshi, (1998); Nyong'o, (1989); Oyugi,

(2003); and Ake, (2000). Attempts have also been made in recent times by Dike, (2003); Annasi (2004); Chweya (2005); Ikubaje (2007); Oloo 2008; Gathii (2009); Wrong (2009); Amutabi (2009); and Enweremadu (2012) to interrogate the struggle against corruption in Nigeria and Kenya. Comparative studies on anti-corruption in Nigeria and Kenya have also been carried out by Ogwang (2007) who studied the need to rethink the anti-corruption strategies in Kenya drawing lessons from Botswana. Hyun (2015) delved on the strategies of controlling corruption in the police service of Kenya and Korea, and Azubuike (2008) who investigated the process of fighting corruption in Nigeria and Ghana.

Despite the fact that studies on corruption in Kenya and Nigeria abound, scanty information exist on the anti-corruption institutions, how they have achieved their mandate and changed over time. The need to critically focus on the institutions mandated with the task of fighting corruption has not received much attention from researchers. This study will be useful in analyzing the different experiences of the anti-corruption institutions of Nigeria and Kenya in their fight against corruption for a better understanding of factors that will aid in successfully curbing the menace.

Nigeria and Kenya made a suitable choice for the study on corruption as they offer intriguing similitudes and contrasts. Both countries have similar historic premise as multi-ethnic previous colonies of Britain that gained independence during the 1960's. Also, the prominent socio-economic position of Nigeria in the West African region and Kenya in the East African region will give a meaningful insight into issues of anti-corruption in Africa. Their diverging democratic experience will also contribute to the understanding of differences between corruption rates during military and civilian regimes. Kenya will serve as a good example of a country with

a long uninterrupted civil rule and high corruption index. Nigeria on the other hand is a country that had long military interventions in its democratic experience and also has a high corruption index. It is therefore intriguing to see these countries manifest similar corruption trends despite their divergent historical and geographical differences.

Furthermore, it was in 2003 that the parliament in Kenya passed into law the Public Officer Ethics Act and the Anti-Corruption and Economic Crimes Act which established the Kenyan Anti-Corruption Commission as the major institution saddled with the responsibility of coordinating and implementing anti-corruption efforts (KACC Act, 2003; EACC Act, 2011). The Economic Financial Crimes Commission (EFCC) of Nigeria was also established in 2003 (EFCC Act, 2003). The similarities in the time of enactment of the anti-corruption laws and the estimated time frame make it suitable for data collection and analysis. The location of the field work is also strategic since the EFCC and EACC have their headquarters in the capital cities, Abuja and Nairobi, which are host to many government agencies and public office holders whose responses will help in generating data for the research.

The study is expected to contribute significantly to knowledge sharing and international cooperation on the fight against corruption drawing from the experience of Nigeria and Kenya. It can also contribute to initiation of effective policies that can help combat corruption.

1.7. Scope and Limitations of the Study

The study interrogated anti-corruption institutions in Nigeria and Kenya within the year 1960-2015. However, due to constraints in time and resources available, the research limited its focus to EACC and EFCC, the apex anti-corruption institutions of the countries. The field work was conducted in Abuja and Nairobi, the capital cities and location of the headquarters of the institutions. However, since corruption is a national issue, useful information was sourced from other states and counties when necessary.

Though corruption exists in private and public domains, the dissertation focused on the public and government sphere with specific attention to cases of grand corruption. The focus on public sector corruption is because apart from the significant role it plays in the economy, the state is also central in enacting anti-corruption laws and establishing anti-corruption agencies. The study generally highlighted the anti-corruption intuitions in Nigeria and Kenya but it specifically focused on the EFCC and the EACC.

The study, while using the two countries was not a comparative type. The two countries were however used to draw lessons for other countries by looking at how each has experienced corruption and dealt with it.

The researcher had some limitations in the process of accessing information since corruption is often considered as a complex and sensitive phenomenon in Africa. Some respondents were reluctant to release information regarding corruption especially since most of the cases involved persons who were still alive.

Furthermore, some government officials were also reluctant to release information they consider harmful to their interest. Likewise, some documented records on cases of corruption are sometimes biased and the measures derived from it can be questionable as valid indicators. The limitation was reduced by including a wider range of respondents such as academics and experts who have worked in anti-corruption committees, human right activists, the media and other individuals who are knowledgeable about anti-corruption. The respondents were also assured of confidentiality, anonymity and informed concept. Except for widely publicized corruption scandals, the study did not also name the actors that were allegedly involved in corrupt practices. Though most of the interviews were conducted in English, lack of fluency in the indigenous language in Kenya posed a limitation for the researcher. A research assistant was therefore employed to interpret and translate when necessary.

1.8 Literature Review

Studies on corruption has produced abundant literature in relation to its concept, forms and strategies to control and manage it. This section reviewed some of the related literature on corruption and anti-corruption in Nigeria and Kenya while identifying any gaps that the study attempted to build on.

1.8.1 Conceptual Issues

Corruption has different meanings making it difficult to define because it is culturally determined and varies from one society to another (Kivutha et al, 1996). Like all other complex social problems, scholars have adopted various interpretations of corruption but little consensus was made on a single definition.

What is possible is a reasoned description of it to isolate it from what is not (Aaltas,1990; Ittner, 2009). While corruption is sometimes explained in a legal manner and defined by relevant laws and regulation, it is also utilized in a wider context to refer to social and political grievances that may not be included in legal classifications.

The complex nature of corruption and understanding of its character makes it a controversial phenomenon. Nevertheless, scholars have endeavored to seek various interpretations of corruption in their research.

Nye (1967) defined corruption as actions that deviates from the formal duties of a public role because of financial or status gains or relationships (close family, personal, private clique. A similar perspective is also captured in Jain's definition of corruption. Jain (2001) defined corruption as use of power in the public office for personal gain in the way that contradicts the rules of the game. Nye's and Jain's public office approach focused on values of behavior that are attached to positions of public power. Their approach to the concept of corruption is however restrictive as it limits the vice to the abuse of public office.

Muthomi (2006) opined that corruption is not only the abuse of public office but also the abuse of private commercial office for private gain. It also includes offering something to someone in position of power either in government or a private organization so that the person will abuse his power and act in a manner that favors the giver. In Muthomi's perspective, corruption involves the offering, giving soliciting or acceptance of an inducement or reward, which may influence the action of any person (Muthomi, 2006). Okullu (2001) argued that corruption is an

impairment of integrity or moral principle; inducement to do wrong by bribery or other unlawful means. Similarly, Anassi (2004) viewed corruption as lack of financial, moral and intellectual integrity in doing business transactions. He views it as a serious transgression against public morality. In the same vein, Ikubaje (2013) defined corruption as the abuse of entrusted property for private, personal and collective gain without accountability. The above definitions reinforce the interpretation of corruption as a vice that transcends the realm of the public sector.

International and national anti-corruption bodies have also given diverse definitions of corruption. The Transparency International defined corruption as "behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by misuse of public power entrusted to them" (TI, 2007). Similarly, the World Bank defined corruption in a simple but flexible way as the abuse of entrusted power for personal gain (World Bank, 1997; Johnston 1996; Heywood 1997). An important aspect of the definition is that it differentiates corruption from other types of societal crimes. Armed robbery for example, is a serious crime which every society punishes but it is not classified as corruption. But when a public office holder official inflates a contract sum with the aim of gaining some advantage, is different, because he has betrayed the public trust entrusted on him. In the case of the armed robber, the element of betrayal of public trust is missing but present in the case of the public office holder.

The African Union Convention on Preventing and Combatting Corruption (2011), maintained that corruption involve acts and practices that include the soliciting or acceptance by a public official, or the offering or granting to a public official or any

other person a gift, favour, promise or advantage in exchange for the performance of public functions. The Anti-Corruption and Economic Crimes Act of Kenya expanded the definition of corruption to include fraud, embezzlement, or misappropriation of public funds, abuse of office, breach of trust and any offences involving dishonesty, in connection with tax, levies, or any other wide range of offences involving improper agents, and improper benefits to trustees for appointments and fraudulent deals in regards to private property (KACC Act, 2003).

While different scholars and institutions have given different explanations of corruption, they all involve actions that are perceived as a negative moral judgment and deviate from a particular standard. It connotes that a perceived act of corruption cuts across the countries and there is an acceptable standard of morality expected in any society. The commonly utilized standard is the law of a nation which contains the provisions against acts of corruption.

The study will adopt for its use the definition of corruption as the abuse or misuse of power by senior public officials or prominent persons in position of authority. These include acts such as embezzlement of public funds through money laundering, procurement of contracts and tenders, grabbing of public land, rigging of elections, non-remittance of payment of government revenue or payment of non-existence funds.

1.8.2 Forms of Corruption

Most literature exploring corruption fail to differentiate forms of corruption. Therefore, corruption is treated generally as a singular class of behavior. Though

studies on corruption have attempted to categorize corruption into different groups, the numerous types of corruption render generalizing it difficult. According to Kenny and Soreide (2008) categories are simplification because various forms of corrupt acts sometimes interlink through other forms of crimes.

Morris (2011) argued that an easy means to differentiate forms of corruption is by identifying the institutional location of the official involved in corruption. He categorized corruption into two broad forms. The 'upper level' and 'lower level' corruption. The upper level involves Presidents, Ministers, Members of Legislature and other senior rank officials while the low-level corruption relates to corrupt acts by civil servants. He further noted that the upper level corruption could be termed political corruption because it occurs at the policy making stage whereas he referred to the low-level corruption as bureaucratic or administrative corruption because it occurs at the implementation of policy or output state of equation carried out by lower level officials. He listed the different acts of corruption as bribery, kickbacks, embezzlement, fraud, nepotism, favoritism and conflict of interest, illegal campaign contributions within partisan and electoral realms.

Amundsen (2000) opined in a similar manner that corruption could be grouped into two forms. Political or grand corruption which occurs in the highest stages political authority and bureaucratic or petty corruption which takes place at the low level or implementation end of politics. In their work on Political Corruption and Development, Atelhe and Agada (2014) opined that political corruption is the unlawful, immoral and unofficial abuse of a political position for personal gain. These include acts of bribery, embezzlement, favoritism and nepotism. They also noted that political corruption happens in a democratic setting when policy makers

and those in power for the benefit of all are corrupt. This research however argued that political corruption can occur in both democratic and undemocratic regimes as seen in the case of Nigeria.

Olurode (2002) argued that corruption in most African societies sometimes takes the form of gift giving. He noted that this is because in African culture, giving of gifts is often an expression of hospitality and it is also a sign of appreciation. Consequently, International business men have used it as an excuse to corrupt government officials on the basis that it is an acceptable business practice within the African culture. However, there is a difference between the culture of appreciation expressed by gift giving and the international manipulation of the traditions for corrupt purposes. According to Mulinge and Lesetedi (2002), the practice of gift giving which had long existed in different parts of Africa did not constitute corrupt practices because it was not practiced at the expense of public good and did not constitute a violation of established laws and ethical considerations (Mulinge and Lesetedi, 2002).

In his studies on the Kenyan experience of corruption, Anassi (2004) asserted that corruption in Kenya can be grouped into the political and grand corruption, bureaucratic corruption and institutional corruption. He described grand corruption as a situation where politicians participate in fraudulent and morally unacceptable financial and political dealings for their financial and political benefits. The dealings include money laundering, embezzlement of funds through illegal procurement of contracts, non-collection or non-remittance of contracts, non-collection or non-remittance of government revenue or grabbing of public land. He opined that Bureaucratic corruption is the systematic and consistent soliciting or receipt of

money in return for rendering public services. Institutional corruption on the other hand involves corrupt practices by a syndicate known and approved by all of them.

Ochola (2007) stated grand corruption, petty or small-scale corruption and looting corruption are manifested in Kenya. The petty corruption occurs at the lowest levels. A typical case is the illegal collection of money by Police men from drivers on the road. The grand corruption is the abuse of discretion of power by senior public officials or prominent persons in authority. The looting form of corruption occurs when the political leaders of a country use public resources for personal and political benefits to secure themselves in power and in the process destroy the institutions of government.

Dike (2003) opined that corruption in Nigeria transpires at the political, bureaucratic and electoral levels. The political form takes place at highest stage of political authority while the bureaucratic form takes occurs on the street and low levels. Electoral corruption on the other hand involves rigging of elections and buying of votes. For Mbama (2010), financial corruption, political corruption and religious corruption are the types of corruption manifested in Nigeria. He explained political corruption occurs when a government official is lacking integrity and misuses his office for private benefits. Mbama also noted that political corruption comprises of bribery, election rigging, as well as nepotism. He concluded that controlling other forms of corruption would be less tasking if political corruption is minimized.

The above authors have attempted to analyze the multifaceted forms of corruption. Their research contributed in categorizing and differentiating the forms of corruption. This study however focused on grand corruption

Elliot (1997) defined grand corruption as corruption at the highest level of government where political leaders, the bureaucracy and the private sector all interact. She argued that grand corruption is usually carried out during procurement of big ticket items such as civilian aircraft, military equipment or infrastructure or broad policy decisions about allocation of industrial and credit subsidies. At this level, distortions usually arise from economic influences such as bribe or from personal allegiances such as tribe, family ties or friendship. Expressing similar views, Morris (2011) opined that grand corruption could be defined as corruption involving presidents, ministers, members of legislature, governors and other high-ranking officials. The above definition of grand corruption is narrow because it limits the vice to the public sector. It is however relevant to the study as high-level corruption outside the public sector would be difficult without government decisions and high level political involvement.

On the other hand, some scholars associate grand corruption with private sector corruption. In her studies on corruption in South Africa, Vuuren (2004) defined grand corruption as kickbacks paid to officials by opportunistic business people who are keen to access government funds to build houses, schools and deliver services at the local and provincial level. She added that it is increasingly also the payment of bribes between companies. In a similar vein, Njoroge (2003) stated that grand corruption is a form of corruption that usually involves the payment of a huge commission to win major contracts or concession. He added that grand corruption also involves the provision of consumer goods because it is conveniently difficult to assess whether the goods were delivered in the intended quality or quantity. Sommer (2017) defined grand corruption as bribe and embezzlement that occurs at

the level of the rulers and cabinet and public sector. It also involves the bribing of an executive officer by a company to enact a concession that allows logging in a previously protected area. The above definitions noted that grand corruption could occur at the public level or private level. The scholars however tend to limit grand corruption to only bribery and kickbacks without encapsulating other corrupt activities that this study covered. Kenny and Soreidi (2008) defined grand corruption as corruption that occurs when politicians or high-ranking officials manipulate a country's management to gain exclusive benefits. This could be a public-sector phenomenon or one that involves both the private and public sectors. They asserted that:

“in the first case, state owned public service providers serve as a tool for politicians who usually benefit through personal revenues, bolstered contributions or party contributions. In the case of the public-private sector interactions, private sector use bribes to influence the form of the market or contractual terms at the cost of consumer welfare”.

Amundsen (2000) argued that grand corruption involves corruption that occurs at the uppermost level of authority and it takes place when legislation and formation of policies are designed for the benefit of the legislators and politicians. These also include acts such as bribery, embezzlement, extortion, fraud, nepotism and favoritism. He further argued that grand corruption is synonymous to political corruption since the state is often involved in most definitions of corruption.

Grand corruption in this study is defined as the abuse of high level power (public or private) for the benefit of few at the expense of many. It includes corrupts activities such as embezzlement, award of contracts by public office holders to personal companies, to friends and family, fraud, bribery, nepotism, ethnicity, rigging of

elections, extortion, diversion and misappropriation of funds and manipulating procurement processes. The cases of grand corruption cited in the research involved government officials because of the central role the state plays in the economy of Nigeria and Kenya.

1.8.3 Anti-Corruption Strategies in Africa

There are also excellent studies on anti-corruption strategies in Nigeria and Kenya. Azuibuke (2008) researched on anti-corruption policies of Africa, with case studies of Nigeria and Ghana. He maintained that the anti-corruption strategies in Africa lacked sincerity of intent and strength of purpose. He also argued that the administrations of Presidents Obasanjo of Nigeria and Kuffor of Ghana respectively are no more than representative samples of the African condition, because most African nations have never had durable anti-corruption policies, starting from the high-point of the independence era. This thesis differs from Azuibuke's work because it adopted Nigeria and Kenya as countries of case studies. Also, it expected that Nigeria and Kenya will offer a broader perspective into anti-corruption initiatives considering that they are not in the same region i.e. West Africa.

Mbaku, (2015) argued that corruption in Nigeria and other parts of Africa can be controlled by integrating ideas from the public theory and using them to execute and formulate anti-corruption problems. These insights involve introducing new and more relevant rules, providing more effective structures, reforming laws and institutions and enforcing machineries to limit the profits of corruption. While the enactment relevant of laws is imperative for any anti-corruption initiative, this study

also further interrogated how political influences affect the performance of the anti-corruption institutions.

In an attempt to discuss corruption management strategies in Kenya, Hyun, (2015) argued that corruption in Kenya is highest in the police sector. He observed that the rate of corruption in the sector has increased in the past decade despite the strategies adopted to control it. Hyun's work provided an insight on anti-corruption strategies in Kenya. His study is however focused on the strategies to fight corruption in the police sector. This study examined the measures taken by EACC of Kenya to fight corruption especially among the political class. It is considered important because corruption is a problem that mainly arises in the interaction between government and the market economy.

Ittner, (2009) whose research focused on the fight against corruption in Botswana and Uganda from a comparative perspective asserted that despite starting at similar levels during independence, the countries took different paths after some decades. While Botswana is a case of an African country that has been commended for promoting good governance and its outstanding rating in the CPI by Transparency International, Uganda on the other hand is rated among countries with high levels of corruption in almost every area of the public sector. Ittner also maintained that the series of efforts to fight corruption in Uganda has failed to significantly reduce the menace because corrupt practices are more accepted by the population in Uganda than Botswana. He attributed Botswana's exceptional performance to its small and ethnically homogenous population, the high quality of its political leadership and its strict adherence to the ideals of democracy and rule of law. He concluded that it is important that anti-corruption efforts in Uganda are geared towards fostering moral

integrity and a clear rejection of corrupt practices among the population. While Ittner's work examined anti-corruption in efforts in an East African Country with high levels of corruption and a Country from Southern Africa with low levels of corruption, this thesis however examined the fight against grand corruption in Nigeria from West Africa and Kenya in East Africa. It interrogated why corruption has persisted in both countries despite their different democratic experience.

In his work on *Legislative Malice and Intimidation: The Statistics Act, the Freedom of Information Act and the Fight against Corruption in Kenya*, Oloo (2008) maintained that a critical factor that does not get adequate attention in the fight against corruption in Kenya is the right to information. He argued that the freedom to access information regarding the declaration of wealth of public officers has the capacity to lead to institutional transparency in administration of public money, accountability of public servants and exposure of corruption. Though his work does not focus on institutions created specifically to fight against corruption, it however offers a useful insight on the role of the media and civil society in fighting corruption.

Ogwang (2007) emphasized on rethinking Kenya's anti-corruption strategies with lessons from Botswana. He argued that Kenya's anti-corruption strategy is flawed because it lacks adherence to the rule of law and basic tenets of democracy, which include the concepts of good governance, transparency, and accountability. He added that unlike Botswana that invested in good governance and integrity from independence with corruption becoming a major issue only in the 1990's, Kenya on the other hand has been burdened with corruption for the past decades. Writing on Kenya's long Anti-corruption agenda, Gathii (2009) maintained that anti-corruption

efforts in Kenya have not been successful because corruption has become a way of life and government's wide commitment is lacking. Ogwang's and Gathii's literature are however focused on Kenya's general anti-corruption strategy particularly before the formation of the EACC. This research examined how the anti-corruption agencies have changed overtime, with focus on EACC and EFCC.

Oyugi (2003) and Medard (2003) asserted that, international and donor pressure was central in informing anti-corruption initiatives and other economic reforms in Kenya. This was particularly during the 1980's when the opposition of a multi-party system and the revelation of the Goldenberg corruption scandal which impacted negatively on the reputation of Kenya at the international forum. Their argument was as a reference point for further investigation into the role of donor institutions in shaping anti-corruption policies in Nigeria and Kenya.

1.9 Theoretical Framework

There are a number of competing theories that explain corruption and anti-corruption in societies. They include the idealist theory, the Marxist theory, the game theory, the neopatrimonialism theory and the structural functionalism theory. The idealist school of thought maintained that corruption can be understood from the nature of moral and social values in society. It explained corruption in connection to selfish ideas found in the value system of the society of (Metiboba, 2002). The Marxist approach asserts that the manner in which society organizes the production, exchange and distribution of goods and services determine its material conditions and social consciousness. It is of the view that corruption is an elite affair (Nkom, 1982). The game theory argues that people are likely to fight corruption and support

anti-corruption laws if they know they are not alone and will not find themselves losing out to those who are corrupt (Nagano, 2009).

The research work was however guided by ideas based on neopatrimonialism and structural functionalism because they offer a broader and comprehensive approach for understanding the nature of corruption and the role of anti-corruption institutions in Nigeria and Kenya.

1.9.1 Structural Functionalism Theory

Structural Functionalism can be traced to the early use of system models and functionalism in biology, sociology, anthropology. Ideas from the theory were developed by Theorists including Gabriel Almond, Emile Durkheim, David Leen and Bronislaw (Benard and Good, 1984). Structural Functionalism views society as a body of a complex system with parts that work in harmony to promote stability and solidarity. It compares the workings of a society to a living organism comprised of various functioning organs working together to keep the organism alive and healthy (Banard, 2000). The institutions of society function in a similar manner of the body and each of these institutions are required to perform a specific function for the maintenance and stability of the entire system. The Functionalist approach argued that fraud and financial crimes emanate from the structures of society that also pressurizes some individuals to involve in conducts that are non-confirming (Merton, 1975). Merton asserted that a society that has strong emphasis on achieving specific goals without a corresponding institutional means will lead to a deviation or an anomie.

Almond and Powell (1966) introduced a structural-functionalist approach to comparing political systems in their study on a developmental approach on comparative politics. They argued that, in order to understand a political system, it is necessary to understand not only its institutions (or structures) but also their respective functions. The structural-functional approach is based on the view that a political system is made up of several key components, including interest groups, political parties and branches of government. Almond (1960) argued that particular functions are performed by all political systems. He identified the functions as political interest aggregation, political socialization, political communication and interest articulation. The Structural functionalists asserted that political systems could be compared on the basis of the different functions performed by its structures. Parson (1975) opined that an institution is justified only in reference to the functions it performs in the society.

The structural functional theory is relevant to this study because corruption and financial crimes are structural problems that have their existence in the socio-economic organization of a society. The state just like a human body is a structure with organs that have different functions. When one organ fails, the structure collapses. That is the same case with a government. When the political structure fails, the economic structure also collapses. The theory was also a suitable framework in explaining the role of anti-corruption institutions in curbing corruption in their respective countries. It is also useful in determining their role in promoting stability in the political system. The anti-corruption agencies ability to develop their own capacities and perform their role effectively is a critical factor in fighting corruption. The theory guided the research in making generalizations about the anti-

corruption institutions in Nigeria and Kenya based on the functions and measures they have employed to fight corruption

Because the functionalist theory tends towards awarding too much credit to integration and consensus of institutions and neglects the influence of political forces and conflicts in the system, the Neopatrimonial theory was also adopted to compliment the theory. This is particularly in explaining the manner in which state resources are acquired for personal gains how the functions of the anti-corruptions institutions are affected by political influences and personal relations.

1.9.2 Neopatrimonialism Theory

Neopatrimonialism theory is a multidisciplinary and multi-dimensional approach that emphasizes the process of patrimonial practices occurring in a modern state (Hyden, 2000). After gaining significance in the 1970's the theory has been used by many scholars to explain political instability and underdevelopment in many countries (Clapham, 1985; Mkandawire, 2013).

Neopatrimonialism originated from Max Weber's rational bureaucratic systems and patrimonial systems. The rational bureaucratic system is operated with formal and impersonal institutions that have clear demarcations between public and private sectors (Erdman and Engel, 2007). Neo patrimonial systems on the other hand are highly politized with involvement of personal and political relationships characterized by rent seeking, clientism and corruption. The clear separation between private and public sphere only exist in theory but it is blurred in practice (Merdard, 2002; Pitcher et al, 2009).

Neopatrimonial theory also explains the personality of leaders, the economic, political and historical legacies of societies in understanding African Politics (Hyden, 2000). It can be applied to different political systems such as military regimes, multi-party democracies and single party systems (Hyden, 2000; Erdman and Engel, 2007).

Clapham (1985) opined that in neo-patrimonial societies, public officials hold positions with powers that are formally defined but operate the powers as a form of private property not public service. Bayart (1993) explained this system as politics of the belly that is characterized by intense struggle to gain access and control state resources.

This approach is useful in understanding the nature of corruption in Nigeria and Kenya, and the manner in which state resources are used for personal and political gains. Also, this theory further guided the analysis of how political influence and personal relations are connected to the anti-corruption institutions which represent the legal - rational systems in this theory. It also aided in interrogating how this connection and fusion affects the performance of the anti-corruption agencies in Nigeria and Kenya.

1.10 Research Methodology

1.10.1 Research Design

The study took the form of a descriptive research design. It adopted the qualitative approach which involves the non-numerical assessment and analysis of information to interpret data and draw conclusions. The qualitative approach was the main approach used because it provided an in-depth investigation of the pattern and nature

of corruption in Nigeria and Kenya and the power relations that influence the performance of anti-corruptions institutions in both countries. However, where necessary, the quantitative method was incorporated using simple statistical graphs to complement the research findings.

1.10.2 Location of Study

Generally, the study was conducted in Nigeria and Kenya. The specific locations for the study were in Abuja, the capital city of Nigeria and Nairobi, the capital city of Kenya (See map on appendix A, 5).

Nigeria officially known as the Federal Republic of Nigeria is a Federal Constitutional Republic in the West of Africa. It borders Cameroon and Chad in the Eastern part of the country, Benin in the West and Niger in the North (World Fact Book, 2015). It is the seventh most populous country in Africa. Nigeria gained its independence from the United Kingdom in October 1, 1960. Nigeria is a member of the United Nations, the Commonwealth of Nations, the African Union and the Organization of Petroleum Exporting Countries (OPEC) (Country Profile: Nigeria, 2015). Nigeria has been infamously popular for corruption with its ratings by the Transparency International as the most corrupt country in 1996, 1997 and 2000 and second most corrupt country in 1999, 2001, 2003 and 2004 (Corruption Perception Index, 1995-2015).

Abuja is the capital city of Nigeria. It is one of the fastest growing cities in Africa. It is host to the headquarters of ECOWAS, ECOMOG, and the regional headquarters to OPEC. The Supreme Court, National Assembly and Presidential complex are

located in Abuja. The embassies for many countries are also situated in the capital city (Euromonitor, March 2, 2010).

The republic of Kenya is located on the equator with the Indian Ocean lying to the south-east and is bordered by Tanzania to the South, Uganda to the West, South Sudan to the North-West, Ethiopia to the North, Somalia to the North-East. Kenya gained its independence from the United Kingdom in 1963 and is one of the biggest economy in East and Central Africa. Kenya has 47 counties headed by Governors. It is a member of the United Nations, the African Union, the Common Wealth of Nations and the East African Community. Kenya has not been rated as the most corrupt country in the world like Nigeria but it also has poor ratings on Corruption Perception Surveys (CPI, 1995-2015; EACC, 2015; Afro Barometer Report, 2015).

Nairobi is the capital city of Kenya established in 1963 after independence. It is one of the foremost cities in Africa politically and financially. It is a host to several businesses and international organizations including the United Nations Environment Program and the UN headquarters for Asia and Africa

1.10.3. Target Population

The people of Nigeria and Kenya.

1.10.4 Sampling Techniques

The study adopted the purposive sampling, snowballing sampling and convenient sampling techniques

The purposive sampling technique was used in targeting people with knowledge on the topic of study. This included anti-corruption agency officials and experts who are directly involved in dealing with the scourge and can highlight more on government anti-corruption efforts during interviews.

The snowballing sampling technique was used to locate the key informants that could offer useful information regarding corruption related issues. The researcher was directed to the informants by some respondents who were interviewed on one on one basis.

The convenient sampling technique was adopted to capture a sample size drawn from ordinary citizens and ensure that the general public had an equal chance of being selected. The technique was also used to capture the views of the public category that often bear the cost of corruption and can contribute to general opinion on the efficiency and reliability of efforts aimed at diminishing corruption.

1.10.5 Sample Size

During the field work, the researcher and the assistants (3 for each country) engaged 140 people in interviews and focus group discussions. This consisted of 40 Key informants and 100 individuals drawn from the general public in Nigeria and Kenya. The Key informants consisted of officials of the EFCC and the EACC, employees who are working with other anti-corruption institutions, public servants selected from the legislative, judiciary, ministerial cadre and members of civil society drawn from the academia, media, professional and community groups, and human rights activists. Anti-corruption experts who have engaged in anti-corruption research or

consultancy were also included as Key informants. The other 100 participants who participated in focus group discussions and oral interviews were drawn from the general public in Nigeria and Kenya. The researchers contacted the participants to request and confirm their availability for the interviews.

The participants were purposively and conveniently selected based on their knowledge and willingness to give information on corruption and anti-corruption institutions in Nigeria and Kenya. The willingness of the participants was also used as a criterion for selecting the respondents because some individuals had useful information but were not willing to respond because of the sensitivity of the subject matter of the study.

The reports of surveys of anti-corruption bodies such as the Transparency International, Afrobarometers and reports of Auditor Generals were also used to compliment the sample size.

1.10.6 Research Instruments

Different research instruments were employed in collecting the data for this study. This was to avoid over reliance on one instrument and to also ensure the validity and accuracy of the information collected. The research instruments were used in collecting both primary and secondary data for the study. This was intended to avoid the problem of placing too much confidence in any one instrument and also to ensure the accuracy and validity of information gathered. The research instruments consisted of interview guides and question guides. Interviews guides were used to generate information from EACC and EFCC officials, key informants and the anti-

corruption experts. The interviews were not restricted to a standardized format. These helped in encouraging open and free responses which enabled the researcher to capture the perception and experiences of the respondents in their own words.

The questionnaires targeted the general public and other government officials who were not comfortable in having a face to face interview to protect their anonymity.

1.10.7 Methods of Data Collection

The methods of data collection involved Key Informants Interviews, one on one interviews, phone interviews, focus group discussions and data from existing literature

The researcher obtained a research permit from the National Commission for Science, Technology and Innovation (See Appendix 6). Approval letters were also received from the EFCC and EACC offices after applications requesting for interviews were written to them. The researcher personally visited the government offices, NGO's and research centers to book appointments for interviews.

The researcher and six trained research assistants participated in the focus group discussions and administering of questionnaires to the relevant respondents taking into consideration the gender factor and adults above 18years. The research assistants were trained for a day on the methods involved in contacting the participants, regulating the focus group discussions, recording and encoding data and protecting the anonymity of respondents. Few questionnaires were emailed when it was not possible to access the respondents. The interviews were mostly

conducted by the researcher but in some cases, the research assistants in Kenya were used to help resolve issues that emanated as a result of language barrier. The interview process encouraged free and open responses to enable the respondent to freely express their perceptions. This was maintained by establishing a good rapport with the respondents.

Secondary data was collected from documented sources in Nigeria and Kenya. Information on anti-corruption issues was obtained from books, journals, newspapers, paper presentations, relevant gazettes, policy documents government reports and committee findings. The data was sourced from the National Libraries, National Archives of Nigeria and Kenya, Kenyatta University Library, University of Nairobi Library, University of Jos Library, University of Abuja Library, EFCC and EACC library sections, media houses, research centers and relevant online websites. These materials were carefully read to find new findings, substantiate my findings and avoid replication of data.

1.10.8 Data Analysis

Analysis of data commenced in the field to avoid loss of important information. Analysis begun by creating themes of collected data. The data recorded in a tape-recorder data was transcribed and typed. The data collected from documented sources were analyzed through content analysis. The information was subjected to interpretation and evaluation in order to collate facts and substantiate the research findings. The approach was suitable for analyzing qualitative data because it identified the latent contents and revealed underlying meanings in documents with a view to understand and explain a specific phenomenon. The analyzed data was

reported in form of narratives coupled with first hand quotation from the primary data.

1.10.9 Data Management and Ethical Considerations

The researcher ensured that the respondents rights to confidentiality and anonymity was maintained where necessary. Also, the research findings were disseminated without discrimination to all concerned. Gender inclusion was also taken care of Plagiarism was avoided by citing and acknowledging all resources in the research accordingly.

CHAPTER TWO

THE EVOLUTION AND DYNAMICS OF GRAND CORRUPTION IN NIGERIA; 1960-2015

2.0 Introduction

There has been tendency to propose solutions and strategies for corruption without necessarily taking into consideration the context in which corruption takes place. This chapter interrogated the changes in the phenomenon of corruption in Nigeria, highlighting its causes and implications for national development as it applies to the countries. Considering the broad nature of corruption, an attempt to analyse all the forms in which it is manifested will exceed the scope of the study. The chapter thus focused on political corruption also commonly referred as grand corruption. It also identified some cases of grand corruption in Nigeria and how these have impacted on governance and development of the country since independence from colonialism.

The Chapter argues that the history of Nigeria from its independence has been marred by several cases of grand corruption with devastating consequences on the nation's development. It noted that that the democratically elected governments can be as corrupt as the military governments

2.1 Dynamics of Corruption in Nigeria

Nigeria is endowed with abundant natural and human resources, including petroleum, natural gas, tin, coal, a large arable land and an estimated population of

188, 621, 425(UN, 2016; World Meters, 2016). Despite these resources, the Nigerian economy has not witnessed a corresponding growth and improvement in the living standards of its people (Ake, 1982; Daimond, 1995; Bello-Imam, 2005; Gashinbaki, 2016). Achebe, (1983) argued that about sixty percent of Nigeria's wealth was regularly consumed by corruption. The report of the UNDP (2004) noted that by the year 2000, Nigeria was heavily indebted and her per capital income was 20% less than the 1975 level despite earning about \$3000 billion of exporting oil since the 1970's. This has largely been attributed to corruption and several years of mismanagement of the country's resources.

The history of Nigeria has been tainted by various cases of corruption in the military and civilian regimes that have ruled the country. For the past fifty-five years after independence in Nigeria, corruption has manifested itself in forms of bribery, election fraud, looting and mismanagement of state resources, nepotism, favoritism, advance fee fraud and general indiscipline (Achebe, 2000; Dike, 2005; Fagbadebo; 2007; Bayart, 2009). The pervasive nature of corruption in Nigeria, led to its infamous rating as most corrupt country by Transparency International in 1996, 1997, 2000 and the 2nd most corrupt country in 1999, 2001, 2003, and 2004 (Corruption, Perception Index, TI 1995-2015; Global Integrity Forum, 2011). Though the country has shown a slight improvement in the CPI, corruption cases are still persistently reported.

Embezzlement and theft of public funds are persistently perpetuated by public officers at different levels of government in Nigeria. Thus, state resources are perceived as 'national cake' for people to 'eat'. In an oral interview, a respondent remarked that:

“I have been a teacher for about 15 years in a government secondary school but find it hard to feed my family and pay my children’s school fees because of the poor salaries paid to teachers. Some of my mates who join politics have suddenly become rich because of their access to government money” (Secondary School Teacher, O.I, 04/11/15).

A civil servant noted that though corruption was common in every level of government in the country, the one perpetuated by the politicians was worst since they had access to steal billions of naira which they stash in foreign bank accounts to re-contest elections again (Civil Servant, O.I, 04/11/15). This echoes the view of Dudley (1982) who opined that the fastest way to influence and affluence in Nigeria is through politics because politics implies more money and more money means politics. Belonging to the party in government also gives one the access to government patronage and contract deals (Dudley, 1982).

The massive looting of state resources by the ruling class has increased the gap between the rich and the poor while also generating abject poverty among majority of the population. This has consequently created a vicious cycle where family and friends of corrupt officials rely on them for survival. A former member of the House of Representatives revealed in a key informant interview that most Nigerians who complained of corruption by politicians encourage the act directly or indirectly. The member said he was constantly inundated with request by family and friends for employments, contracts or university admissions. He noted that “people were not satisfied with a candidate who has the capacity and good intention to serve. Rather, one would need to distribute money and tangible items like bags of rice, cartons of soaps and bundles of wrappers to the supporters in order to appease them and secure their votes” (Politician, KII, 12/11/15). Similarly, a University Professor pointed out that:

“corruption is like a culture in Nigeria. While politicians and senior government officials are busy stealing state resources, the citizens who complain of corruption also engage in corrupt activities by putting pressure on their kinsmen for favours” (University Professor, O.I 12/01/2016).

This is why Nye (1967) explained that political corruption is not driven by the political class only but also the citizens who overwhelm their friends, relations, and ethnic kin's in influential positions for contracts, jobs, and monetary favours. Diamond (1995), described this as a dense network of vertical ties joining political patrons to clients that sustain the system but with great instability.

The implication of the network described by Diamond is that corrupt politicians have in a way compromised part of the society by giving it part of the loot. Thus, where public officials have not fully imbibed ethical values given the social pressures on them to provide for family members beyond their legitimate income, the temptation to resort to corrupt means to get things done or undone becomes more pressing. However, while a junior public official who engages in petty corruption can blame the offence on poverty and the demands of the extended system, the scale of graft by top political elites is principally propelled by greed.

Although corruption is a major challenge for several other developing states very few countries have been so affected by graft as Nigeria (Sateolu, 2004; Haarhuis, 2005). According to the former executive Chairman of EFCC, Nuhu Ribadu, Nigeria has lost about three hundred and eighty billion dollars to corruption by those in government between 1960 and 1999. The National Planning Commission of Nigeria identified systemic corruption, which produces low levels of accountability and

transparency, as the major source of development failure in the country (National Planning Commission, 2005).

The United Nations Department of State Country Report on Human Right Practice (2000) reported that wealth in Nigeria is accumulated mostly by corruption and non-transparent governmental contracting practices. Similarly, the British Department for International Development also states that poverty still persists in Nigeria due to corruption particularly in the public sector manifesting itself in different ways, from mismanagement of resources, bribery, nepotism, to abuse of office (International Journal of World Peace, 2012). These reports were confirmed by a retired civil servant who argued that even though Nigeria had the opportunity to join the league of developed countries because of its abundant natural resources particularly oil, the country is rather sinking in poverty characterized by increasing inflation and lack of basic social amenities. He remarked that:

“I was lucky during my time to have benefited from free secondary school education and sponsorship for my university in Norway. These days, people who come from poor background like I did will not benefit from such opportunities because the leaders have looted and drained the nation’s resources” (Retired Civil Servant, KII, 10/11/2015).

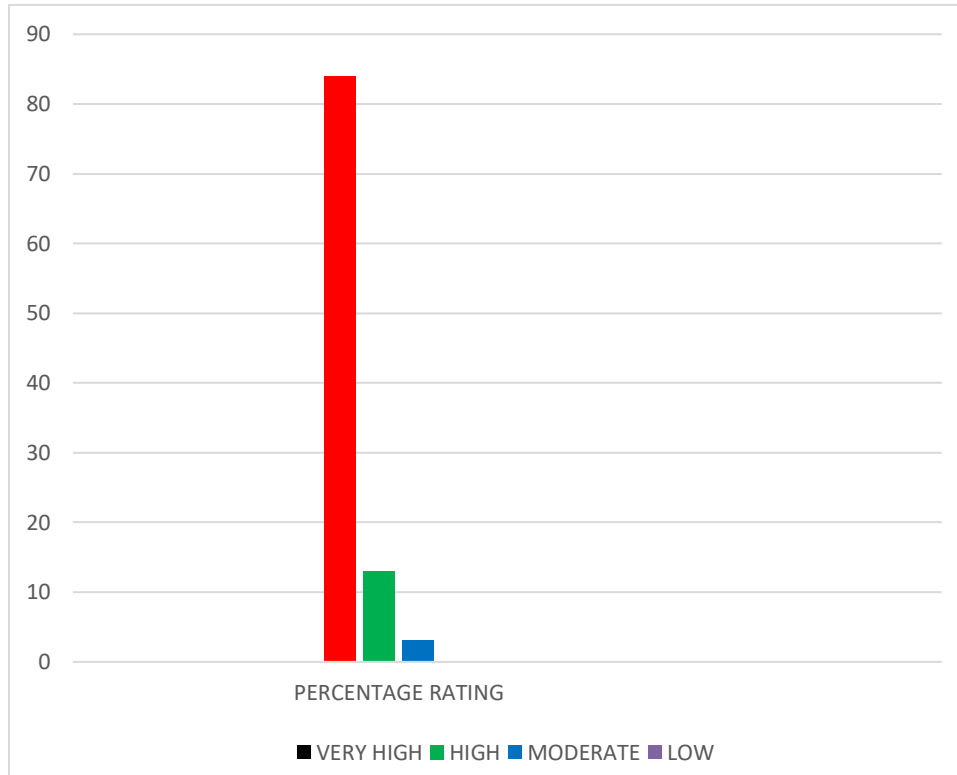


Figure 1. Perceived level of Corruption in Nigeria

(Source: Author, 2016)

The study further sought opinion of individuals who participated in the focus group discussions on corruption levels in the country. 84% of the respondents indicated it was very high, 13% indicated it was high and 3% indicated it was moderate. No respondent indicated that corruption was low as shown in the table above. This could be because many of the respondents have encountered at least one form of corruption in the country. Also, there is increased awareness regarding corrupt practices because the media is inundated with reports of corruption and its negative impacts.

According to the EFCC Annual report (2012), the persistent phenomenon of corruption in the country has contributed in reducing the legitimacy of the government, increase in insecurity especially in the forms of kidnapping, robbery, ethnic and religious violence, deterioration in the standards of living and political instability. At the international scene, corruption has also tarnished the image of Nigeria and scared away foreign investors from the country.

Studies on corruption in Nigeria have revealed that there appears to be a link between the natural resource of a country and corruption. (Fagbadebo, 2007; Enweremadu, 2012; Gashinbaki, 2016). Fagbadebo (2007) argued that:

“The relationship between natural resource of a country and corruption is derived from the popular belief that ‘scarcity leads to invention and abundance leads to abuse’. Since crude oil revenue mainly accounts for Nigeria’s foreign exchange, the government played the dominant role as producer and controller in the economy producing inefficiencies and waste”.

This indicated that corruption quickly increased with the discovery of oil as an easy means of government revenue. With the state as the main instrument for acquiring wealth, the ideals of hard work in the country were distorted and the struggle to capture and maintain public offices also became intense.

A key informant who served as a member of the Presidential Anti-Corruption Advisory Committee pointed out that:

“the easy money Nigeria acquired from oil encouraged greed and corruption among the political class who struggle for power by all means because of the luxury that is associated with politics in the country” (Anti-Corruption Expert, KII, 03/02/16).

This view agrees with Bayart (1993); Diamond (1995); and Lohda (2007) who maintained that the intensification of corruption in Nigeria can be understood in terms of class formation whereby the politicians constitute a class not as an outcome of relations of production but by a shared taste for extravagant consumption and acquisition financed by access to state power.

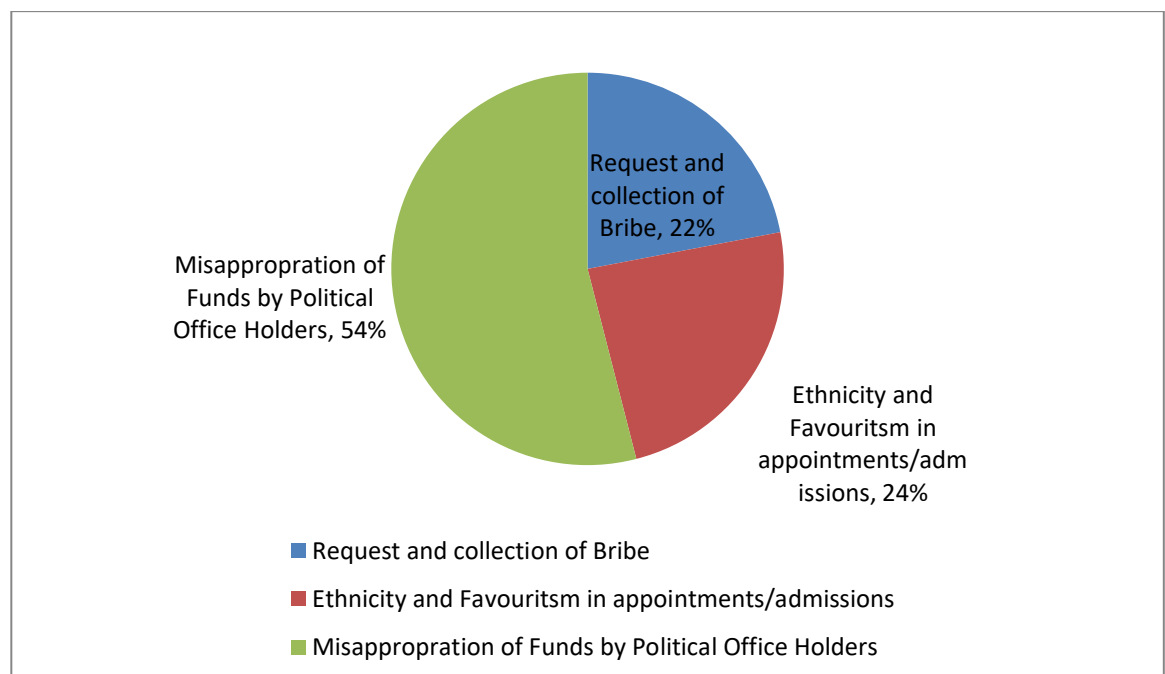


Figure 2. Forms of corruption in Nigeria

(Source, Author, 2016).

Similarly, when asked to rate the worst form of corruption in Nigeria, 54 % of the respondents indicated misappropriation of funds by political office holders, 24 % indicated request and collection of bribe and 22 % indicated ethnicity and favoritism in appointments, admissions, etc. Their response is related to the socio-economic hardship experienced by many Nigerians because of government's inability to provide basic facilities despite the nation's natural resources. The misappropriation of public funds by senior political office holders in Nigeria has also publicly attracted strong criticism by civil society groups and the international community

A community leader however maintained a different view during an oral interview by stating that ethnicity encouraged corruption in Nigeria. He noted that because Nigeria has deep ethnic cleavages, control of state power by the ruling class also gave them an opportunity to allocate resources based on ethnic and social support of the ruling class (Community Leader, O.I 02/11/2015).

The differing positions all rightly explain the nature of corruption in Nigeria as it can be attributed to combination of colonial legacies, class formation and struggle, greed, abundance of oil, ethnic as well as religious cleavages. The sections below will highlight some of the cases of grand corruption in Nigeria during the colonial period through the military regimes to the fourth democratic republic.

2.2 Corruption in Nigeria's Colonia Era

The colonial experiences of Nigeria and most African countries was a fertile ground for political corruption and lack of accountability in governance. This was because British entrance in Nigeria which first occurred through merchant trade was a relationship that was based on falsehood (Osoba, 1996; Mulinge and Lesetedi, 2002). The trade saw the exchange of Africa's virile young men for items such as

drinks, walking sticks, mirrors etc (Tignor, 1993). In other cases, protection and treaties that were fraudulent were offered to the African Chiefs so they give up their kingdoms without realizing it. For instance, in 1861, a British Naval Commander forcefully secured the cooperation of the king of Lagos, Dosunmu, to sign the cession of Lagos with all its rights and territories to Britain. The British Crown later granted him "an annual pension of 1,200 bags of cowries for his life time (Tignor, 1993).

Any opposition by some chiefs to resist giving out their kingdoms was dealt with force fully. This was the case of King Jaja of Opobo who was forcefully exiled because he challenged the British over claiming the Opobo Kingdom as their territory (Osoba, 1996). King Ejiefoh of Ewu Kingdom who also resisted the presence of the British soldiers who were better armed was attacked, defeated and deported to Ubiaja kept under the watchful eyes of the British soldiers stationed there (NAN/119, Annual Report of Benin Province for the year 1906)

By the end of 1889, the colony of Lagos was ruled directly by the British crown while the Southern and Northern Protectorates were ruled by a company under a charter granted by the British crown. The colony of Lagos and Southern Protectorates became integrated in 1906. The British later transformed these territories into formal colonies with colonial governors representing the crowns (Ikeme, 1985). In 1914, the Northern and Southern Protectorates were merged to form the country Nigeria and subjugate the whole nation to colonial rule.

After gaining political control of their conquered territories, an empire established by force and scam was formed by the colonial leaders. With the aid of monopoly trading companies, the British took control of the sovereign powers of the people of

Nigeria and led a corrupt and fraudulent system of accumulation. These involved unequal terms of trade, low subsistence wages, exorbitant taxation and its indirect rule system (Osoba, 1996; Azubuike, 2008; Eneweremadu, 2012; Moyosore; 2015).

Since one of the central force behind the imperial enterprise in Africa was predicted on the need for economic gain by the colonizers, it was a fundamental principle that the colonies had to finance their own cost of administration and development. Taxation was therefore enforced as a major source of revenue to support the colonial administration, as a stimulation to production and to ensure the supremacy of the British authority. The former Governor General of Nigeria, Lord Fedrick Lugard asserted that:

“let it be admitted at the onset that European brains, capital and energy have never been and never will be expended in developing the resources of Africa from the motive of pure philanthropy. That Europe is in Africa for the mutual benefit of her own industrial classes, and the benefit can be made reciprocal and that it is the aim and desire of the civilized administration to fulfil this dual mandate” (Lugard, 1926).

The forceful amalgamation of Nigeria by the colonial masters also fostered the ethnic divides and cleavages between majority and minority groups in the country and made it difficult for the people to develop a sense of nationalism that would reduce suspicion and distrust to a minimal level. The ethnic suspicion and distrust later degenerated to post independence political crises and a civil war which lasted from 1973-1970 when the Igbos from South Eastern Nigeria attempted to secede to form the republic of Biafra. The war was estimated to have a death toll of more than one million (Madieobo, 1980; Olukoshi, 1996). The study noted that feelings of suspicion and animosity is still evident among the ethnic groups in Nigeria. Apart from the recent ethnic clashes and threats of cessation by some ethnic groups in the country, most of the participants in a focus group discussion admitted that if given the opportunity, they would prefer to offer admissions and jobs to someone from their ethnic group because the person will help them in return (FDG, 24/11/16; 11/01/16).

A community Elder noted during an oral interview that the British mode of administration in colonial era contributed to high level of corrupt activities perpetuated by political office holders. He remarked that:

“the British administrative system of indirect rule in Nigeria restricted the ethical awareness that will limit corruption because the colonial leaders and their collaborators lived in affluence while majority of Nigerians wallowed in poverty and ignorance” (Community Leader, O. I, 02/11/16).

Similarly, Mamdani (1996) and Ikpe, (2009) noted that the traditional rulers with the few influential elites were happy with the prospects presented by the colonial structure. They exploited the advantage they had to access wealth from the colonial system to create extra income for themselves by illegally manipulating the system of taxation.

The colonial system provided the occasion for a wide range of practices of fraudulent accumulation of wealth by these ‘auxiliary tricksters’ who profited from their function as political and cultural intermediaries for economic gain. Certain privileges like arranging forced labour, imposition and collection of taxes, easy access to official legal and credit facilities accorded to the tricksters were systematically used in the service of private interests and to a great degree signaled what was later to be called 'corruption' or 'the privatization of the state (Bayart, Ellis and Beatrice ,1999)

Whereas, the British empowered a few people, many Nigerian masses were unaffected by such opportunities and largely remained illiterates. They were also repressed from expressing themselves and forming any kind of opposition. The repression of a majority of the people through the colonial chiefs and the police set

an enabling environment for corruption to thrive even after Nigeria got its independence.

2.3 Corruption and Collapse of the First Republic; 1960-1966

The British gradually transferred power to Nigeria on October 1, 1960 without the violent struggles experienced in other parts of Africa. However, instead of dismantling the colonial structure, the African leaders maintained the structure that was in existence in the colonial era. A structure that had been a matter of few benefitting at the expense of others. Since there was no system of accountability put in place, the privileged few who were bequeathed political power began to engage in pilfering of state resources (Adedeji, 1989; Akintola, 2002; Ogbeidi, 2012).

Dudley, 1973 and Osoba 1996 maintained that during the decolonization process, the colonialist consolidated and enhanced the existing structures of accumulation under which foreign monopoly capital dominated all key sectors of the economy such as manufacturing industries, banking, shipping, export- import trade, extractive and insurance. A Key informant who expressed a similar perspective noted that:

“The post-independence period also gave the ruling elites opportunities to be made ministers, Chairmen of board and parastatals and opportunities to award contracts, scholarships and issue licenses to their friends and families. This became an opportunity for most of them to seek for kickbacks popularly referred to as the “10%” in that era (Elder Statesman KII, 05/02/16).

Ake (1982) and Adedeji (1989) argued that corruption was nurtured in Nigeria because the post-colonial political elites were thrust into positions of political power without any independent financial base to finance their political careers. Since the British colonial policy discouraged indigenous entrepreneurship, state coffers were the only available source of funds, and so these elites had little choice but to grab them. They observed that the lifestyle of the colonialist may have also influenced

the poorer masses to uphold them as a symbol of success and desire to copy them in diverse ways.

An Elder Statesman remarked that:

“The property of the colonialist was not regarded as a collective one. This led to another belief that ‘government property is not our property’. Therefore, looting and vandalism of public property became a normal practice in Nigeria (Elder Statesman, KII, 05/ 02/ 16).

The study observed that the continuous neglect of public institutions and lack of concern for public resources as a national collective property in Nigeria is an indicator to the fact that this view is still upheld by majority of Nigerians.

Cases of corrupt practices by the post-colonial leaders were reported in different parts of the country. In the West of Nigeria, a Politician Adegoke Adelabu, was investigated based on allegations of corruption brought against him by the opposition party. The report indicted him for diversion of state resources leading to a call for him to resign as the district head (Nwaodu, 2015). In Eastern region, a report investigated the African Continental Bank which was brought by a firm that belonged Nnamdi Azikiwe and his family. The report revealed that majority of the capital of the Bank was from the Eastern Regional Financial Cooperation (Nwadu, 2012; Akinnola 2013). Allegations of corruption was also charged against some public officials in Borno from Northern Nigeria. The British authorities were also accused of corrupt practices after independence particularly in manipulating the results of an election which installed a Fulani ruler in Kano (Akinnola, 2013).

Furthermore, because of the ethnic suspicion that was growing among the ethnic groups after independence, the leaders started whipping such sentiments to protect their political careers. This sparked further crises and political instability in the country. For instance, the first post-independence census in Nigeria carried out in

1962 was marred with various illegalities that included inflation of population figures and falsification of records in most of the regions (Akintola, 2002; Alemika, 2011). The results of the census were cancelled because of controversies surrounding the census. Another census was held in 1963. Though the results were officially accepted, the census was still charged with accusations of manipulation of figures by the different ethnic regions in attempt to gain political dominance in the country (Alemika, 2011; Elder Statesman, KII, 05/02/16).

The 1963 elections in the first republic were also characterized by allegations of election fraud and corruption. This deteriorated into electoral violence in different parts of the country. In the Western region, cases of arson, mass murder, thuggery and lawlessness were reported particularly because of the conflict of interest between Samuel Akintola and Obafemi Awolowo. Violent conflicts similarly erupted in the North between some members of the Northern people's congress, Action Group and the Northern Element Progressive Union (Alemika, 2011).

The above development showed that the desperation by politicians to maintain power using primordial sentiments alongside ethnic and religious identities had already been established by the end of the first republic. Their corrupt tendencies had also become serious dividing forces that threatened the survival of the country. However, corruption at the first republic was not widely spread. It became more prevalent as the struggle for power among politicians intensified and consequently degenerated to reckless looting of public property and personalization of state resources.

2.4 The Military Era and Legalization of Corruption in Nigeria; 1966-1998

The study found it significant to examine the trend of corruption during the military era in Nigeria since the military played a prominent role in Nigeria's political system with 29 years rule and six military coup d'état involving change of government.

The systemic governance failure in Nigeria's first republic had paved way for military intervention and invariably, its collapse. The protracted political crises, corruption cases, tribal politics and misunderstanding between the politicians were evidently used as a justification for the first military intervention and government of January, 1966 (Mbaku, 1996; Kayode, 1999).

In January, 15, 1966, some Military Officers overthrew the central and regional governments of Nigeria, killed the prime Minister and tried to take control of the government. In his coup speech Major Nzeogwu announced that:

“Our enemies are the political profiteers, men and women in high places that seek bribes and demand 10%. Those who seek to keep the country permanently divided so they can remain in office as ministers or VIP’s. Those that make our country look big for nothing before international circles, those who have corrupted our society and put the Nigerian calendar by their words and deeds” (Nzeogwu’s Coup Speech, 1966).

However, the coup was suppressed immediately by another senior Igbo military officer, Aguyi Ironsi. But instead of handing power back to the civilian authorities, Ironsi assumed power as head of state on January 15, 1966.

Ironsi’s supposedly nationalistic military intervention of 1966 was also short-lived as a second military coup on 29th July, 1966 was staged by another group of military officers who were aggrieved because most of the high-profile victims of the first military coup were from the northern part of the country. They also had the

perception that Aguiyi's government was an Igbo conspiracy (Mbaku, 2000; Siollun, 2009)

A Retire Civil Servant revealed during an interview that:

“Aguiyi Ironsi had taken over a country that was already deeply divided along ethnic and religious cleavages. Though he tried to dispel the notion and courted the aggrieved ethnic groups through political appointments, his failure to punish the January coup plotters and the enactment of “Decree No 34” revoking the country's federal structure to a unitary structure only solidified the conspiracy theory that his government was for the Igbo's' (Retired Civil Servant, KII, 10/11/15).

The religious and ethnic tension triggered a civil war during the military era in 1967. Nigeria survived the civil war but the battle against corruption continued to remain a challenge. The intervention which was staged to end corruption changed the history of the nation and ended up worsening corruption.

Though corruption was prevalent in the military era, some of the cases of grand corruption were not widely reported and documented because of the limited freedom of the press and repressive tendencies of the military. This section would highlight the major cases that were reported in specific military regimes in Nigeria.

2.4.1 Grand Corruption Cases during the Reign of Yakubu Gowon; 1966-1975

General Yakubu Gowon was appointed as Head of State following the military coup of July, 1966. Gowon's regime witnesses an unprecedented oil boom and inflow of petrol dollars in the 1970's. The oil boom generated a lot of money for the country but it was mismanaged by corruption (Ogbeidi, 2012). The report of the panel of inquiry established after the overthrow of the regime revealed that senior officials in government indulged in a massive diversion of state resources by awarding contracts

and paying upfront without taking concrete efforts to supervise and monitor the projects (Federal Republic of Nigeria, 1977).

A corruption scandal relating to the imports of cement was also reported during the administration in 1975. Many public officials in the ministry of defense and central Bank in collaboration with businessmen and some foreign companies were accused of inflating the amount of cement to be procured and inclusion of inferior cements (Emma et al 2012; Iyaniwura, 2014). Thus, cases of collapsed buildings and new roads were reported because of bad construction and inadequate control. Corruption scandals also erupted in the health sector which indicted some government officials for importing medical drugs which dates had long expired (Federal Republic of Nigeria, 1977; Omotosho, 1998).

A Key informant also stated that Gowon was popularly alleged to have stated that “money was not Nigeria’s problem but how to spend it” (Retired Civil Servant, KII, 10/11/15). This view was an indicator to the government corrupt tendencies. He was regarded as not being decisive against corrupt officials in his government.

2.4.2 Decline of Grand Corruption in Murtala Mohammed’s Regime; 1975-1976

Murtala Mohammed’s regime was characterized by a lesser manifestation of grand corruption than his predecessor because of the government’s zero tolerance to corruption (Siollun, 2009; Moyosore, 2015). Nevertheless, some principal officers in his government retired and embarked on lucrative businesses that suggested that they could have used their position in government to accumulate wealth. For instance, the late Major General Shehu Yar’adua emerged from his government to become a bank owner and one of the richest Nigerians of his time. Likewise, Lt

General Theophilus Danjuma became a very successful business man after he left the government (Siollun, 2009).

The government's radical retrenchment of over 10, 000 workers in the public service was also believed to have created insecurity of tenure and increase in corrupt acts by civil servants. A Retired Civil servant revealed that:

“After many people were sacked by Murtala from their jobs, some middle class and junior civil servants started stealing from public resources to secure themselves in case they were unceremoniously retrenched from service” (Retired Civil Servant, O.I, 10/11/15).

Murtala's government is however remembered by most Nigerians for its proactive anti-corruption posture. Public officers who could not account for their wealth were dismissed from office and their assets seized from them. Murtala's regime lasted for only seven months as he was assassinated in a repelled military coup. General Olusegun Obasanjo who was his Deputy succeeded him after his death.

2.4.3 The Resurgence of Corruption in Olusegun Obasanjo Regime;

1976-1979

The first administration of Olusegun Obasanjo is generally perceived as a continuation of Mohammed Murtala's administration. The government centrally focused on transitioning to a democratic regime and implementing national development plans. Obasanjo's Military regime witnessed increase in oil revenues that encouraged large scale spending on building infrastructure (Ogbeidi, 2012). This became an avenue for people connected to the government to enrich themselves. The government was alleged to have given out contracts of building new pipelines, oil refineries, expansion of the National Shipping Council and festival of Arts and culture to its friends and cronies. The projects were also only

focused in the urban centers while the areas outside the capital city remained largely underdeveloped (Ogbeidi, 2012; Anti-Corruption Expert, KII 03/02/16).

Furthermore, the Operation Feed the Nation program which sought to increase food production by encouraging citizens to cultivate empty plots of land was also hijacked by the political class who became the main beneficiaries of the scheme. They reportedly allocated large plots of land for themselves and neglected the rural farmers. Obasanjo's present Ota Farm in Nigeria is allegedly borne out of the Operation Feed the Nation scheme (Imoh & Gbenegbara, 2014; Anti-Corruption Expert, KII 03/02/16).

Following nationwide elections in 1979 on a multi-party basis, a civilian President, Shehu Shagari was elected to take over from Obasanjo.

2.4.4 Perfection of Grand Corruption: Shehu Shagari's Government; 1979-1983

Like most post-colonial African leaders, Shagari sought to entrench his power by galvanizing a small clique of people around him. As a Patron, nepotism and kinship ties were also employed by his regime to perpetuate acts of primitive accumulation.

Most of the members of the ruling party, NPN were alleged to engage in reckless spending that included buying private jets, owning huge foreign accounts and awarding contracts that were not executed (Bamgbose, 2010; Adesote et al, 2012; Retired Civil Servant, KII 10/11/15). One of the major cases of corruption reported in Shagari's regime was revealed after an investigation on the collapse of the former Johnson Mathey Bank of London. It was reported that some politicians who had

amassed illegal money from stealing public resources used the Bank to transfer their currency outside their country (Adesote et al, 2012).

Another prominent scandal of grand corruption in Shagari's government involved the Minister of Transport Umaru Dikko who was also the son-in law of President Shagari. The minister was reported to have allegedly offered a bribe of a suitcase full of money approximating half a million dollars to a foreign contractor who came to complain to the minister about the reluctance of the Nigerian government to perform its obligations under the contract (Siollun, 2013).

The pervasive corruption during the government of Shagari led Nigeria to an unprecedented period of debt and economic crises. In 1981, the economy began to decline and by 1982, there was food shortage (Ribadu, 2006; Retired Civil Servant, KII, 10/03/16). To save Nigerians from starving, the government constituted a task force committee for the importation of rice to the country. The taskforce was headed by the Transport Minister Umaru Dikko who was already indicted for corruption. Not surprisingly, the food did not get to the masses as the task force was widely accused of hoarding rice to artificially worsen the prevailing scarcity of food in order to further increase prices. It was also accused of issuing import licenses to businessmen with connection to the ruling party (Siollun, 2009; Retired Civil Servant, KII, 10/03/16).

Similarly, the first Chairman of the EFCC of Nigeria, Nuhu Ribadu asserted that Shagari's regime was one:

“characterized by gross financial indiscipline and profligacy, wanton waste, political thuggery, disrespect for rule of law and bared faced free-for all plundering of public funds through white elephant projects” (Ribadu, 2006).

A Key Informant Interviewee revealed that the high level of corruption in Shagari's era was the reason the regime was usually referred to as "government of the contractors, by the contractors and for the contractors (Anti-Corruption Expert, KII, 03/02/16). This era also witnessed the phenomenon of buildings mysteriously being burnt to destroy records that could trace culprits after investigations of corrupt practices started on such premises (Bamgbose, 2010; Ogbeidi, 2012 ;).

Shagari's government was also marred by cases of electoral fraud in the 1983 elections. The President's inability to curb the corruption in his government, the declining national resources and resulting economic hardship led to widespread discontentment and became a major reason for the military takeover by General Buhari in 1983.

2.4.5 Corruption During Mohammed Buhari's Regime; 1983-1985

After General Buhari became the Head of State in 1983, fewer cases of corruption were reported probably because of the stiff penalties that were given to corrupt public officials during that regime.

The major corruption scandal that was reported in the regime was when the Emir of Gwandu, a father to Buhari's Aide de Camp (ADC) was reported to have successfully smuggled 53 suit cases of naira notes out of the country (Siollun, 2013). This happened when the government had banned the transfer of naira out of the country. It was reported that the Emir with the help of his son arrived at the airport with military officials and threatened to shoot any airport security that resisted their attempt to smuggle the suitcases without being searched (Adesote 2012; Siollun, 2013). The fact that the suitcases belonged to the father of Buhari's ADC suggested

that the law did not apply to those who had close connections with the Head of State.

2.4.6 The Legalization of Grand Corruption in Nigeria: Ibrahim Babangida's Government; 1985-1993

Nigeria witnessed a resurgence of political corruption during General Ibrahim Babangida's regime after he toppled Buhari's government in a bloodless coup in 1985. The regime is often remembered for the misappropriation and the mismanagement of the gulf oil windfall worth over 12 billion dollars. These included expenses incurred in mundane purchases such as television and video sets for the presidency, documentary film on Nigeria, foreign trips for the president's wife and medical cost for Aso Rock amongst others (Pius Okigbo's Report of 1994; Diamond, 1995; Ogbeidi, 2012).

Diamond (1995) asserted that General Babangida who ruled Nigeria for eight years was popularly perceived as the first personal dictator in the country's history, obsessed with aggrandizement of his own wealth, and power by constantly manipulating the game of transition and self-interests and divisions of the politicians to perpetuate him in office. Diamond's assertion was confirmed by a Key informant who also revealed that:

“General Babangida was allegedly reported to be regularly giving out gifts in cash or Mercedes Benz cars to newspaper editors, directors of state broadcasting corporations, traditional rulers, and military officers to secure loyalty for his government” (Civil Rights Activist, KII, 03/05/16).

Babangida's style of governance was characterized by continually shuffling of appointments, giving out cash, contracts and lucrative postings to his loyalists to solidify his grip on power. The privatization program of the government was also

used to offer banking, oil, and import licensing to his friends and family (Diamond, 1995; Iyaniwura, 2014; Civil Rights Activist, KII, 03/05/16). By the year 1991, General Babangida had appointed more than sixty governors whom were transferred from one state to another. He also created seven additional states and established more government institutions such as the Directorate for Food, Roads and Rural Infrastructures (DFFRI), MAMSER, Center for Democratic Studies, and National Council for Inter-Governmental Studies (Iyaniwura, 2014).

These appointments were perceived as opportunities he created for his loyalists to have access to state resources (Civil Right Activists, KII, 03/05/16). Babangida's regime was a typical instance of a neo-patrimonial system that was entrenched through patron and clientele relationship. His position as the President made him the source for patronage that demanded loyalty in exchange. Thus, his inclination as a patrimonial ruler was to treat administrative offices as personal property to dispose as he wishes.

General Ibrahim Babaginda was also suspected for killing a senior and well-respected journalist Dele Giwa by a parcel bomb while he was working on a story that accused the President and some senior army officers of involvement in drug dealing during the regime. Though the government denied having any hand in Giwa's death, his murderers were never found or convicted. He also executed 10 military men in March, 1995 and 42 in July, 1990 for alleged coup plot against his government (Akintola, 2002; Soillun, 2013; Journalist, O.I, 06/05/16).

The regime also encouraged corruption by granting pardon to the military officers convicted by his predecessors and returning their confiscated properties. He also constituted a panel to review the cases of jailed politicians on the premise that

General Buhari's action was excessive zealotry. At the end of the panel's sitting, he reduced the sentences of about 50 officers and acquitted 12 of them (Ogbeidi, 2012; Emma, 2012).

General Babangida also annulled the widely acclaimed free and fair Presidential civilian elections in 1993. This generated protest and strike especially from the southern part of the country. Owing to the strong opposition to his government, Babangida reluctantly transferred power to an Interim National Government in 1993 headed by Ernest Shonekan. Barely after three months, Shonekan's government was overthrown from government by a military coup led by General Sani Abacha in November, 1993.

2.4.7 The Looting of Nigeria under General Sani Abacha; 1993-1998

The rate of corruption in Nigeria's military era was perceived to be at its highest during Sani Abacha's regime. Though the rule of Babaginda witnessed massive corruption, his government presented some appearance of accountability. However, during General Abacha's government, During Abcaha's regime, there absolute looting of public resources (Diamond 1995; Transparency International 1997).

Under Abacha's regime, state apparatus lost their autonomy and key ministries such as oil, finance, solid minerals, and housing ministries were operated under the control of the presidency (Fagdebo, 2007: Civil Rights Activist, KII, 03/05/16). The International Centre for Assets Recovery reported that Abacha's son Mohammed, physically hauled foreign currencies from the Central Bank of Nigeria. This was possible as the head of the Bank was accountable to his family. The late Abacha's family members and his associates were also indicted for recklessly looting Nigeria's funds. They were alleged to have embezzled over \$4.3 billion dollars saved in

foreign accounts (International Centre for Assets Recovery, 2009; Akinnola, 2015; EFCC O.I, 09/12/15).

Furthermore, the Reuters News Agency cited in Iyawunra (2014) reported that about 60 billion naira was spent by 26 ministers in 60 days, while the contract for the CBN headquarters was allegedly awarded for 15 billion dollars. The level of corruption and tyranny during Abacha's regime was rated to have surpassed other infamous African leaders such as Mobutu Sese Seko of Zaire. He was listed as the 4th most corrupt leader in history by Transparency International (TI, 1999).

Abacha's government was also accused of gross abuse of human rights especially after he hanged Ken Saro Wiwa and other Ogoni activist who opposed the exploitation of oil and gas resources by the Multinational Dutch Company. As a result, Nigeria was suspended from the Commonwealth (Akintola, 2002). General Abacha passed on after a sudden heart attack in 1998. At the period of his demise, Nigeria had become infamously popular for corruption and was rated the most corrupt country by TI in 1996, 1997 and 2000 (TI, 1996-2000). In the year 2000 after he died, the Swiss Banking Commission Report also indicted the Swiss Bank for its failure to comply with due process when it allowed Abacha's friends and family to access accounts totaling 600 million US dollars. It was also alleged that more than 1 billion US Dollars were found in various accounts throughout Europe in the same year (Pallister, 2000; International Center for Assets Recovery, 2009). General Sani Abacha was replaced by General Abdulsalam Abubakar.

2.4.8 The Halliburton Scandal and Mismanagement of State Resources in Abusalami's Government; 1998-1999

General Abdulsalami's government was brief and focused on transitioning the country to democracy because of the domestic and international pressure on the military to relinquish their protracted years of governance in Nigeria.

Nevertheless, General Abdulsalami had been accused as one of the military presidents who allegedly collected bribes from two foreign companies, Halliburton and Siemens in order to award multi-million-dollar contracts to the companies (Azubuike, 2008; Ndijeka et al, 2014). The mismanagement of resources by the government was also evident when it reportedly spent also 20 billion Naira for hosting the world youth Championship, 325 million Naira for rehabilitation of the National Electric Power Authority (NEPA), and 4 billion Naira for the Independent National Electoral Commission (INEC) all within 10 months (Ndijeka et al, 2014).

From the cases above, it is indicative that though most military coups were rationalized on an anti-corruption mandate, corruption still blossomed during the military. It can be argued that corruption increased during the military era because the military did not uphold basic principles of good governance such as transparency, accountability, rule of law and respect for human rights and the rule of law. Rather, they managed the state like a conquered territory while they engaged in ruthless extravagance. Considering the fact that the military did not often follow due process in making policies but rather made decrees or orders, it was very easy for them to abuse their power and misuse state resources. The possession of a military uniform conferred on them unimaginable power and authority.

Corruption in the military era was also fueled by the rise in revenue generated from petroleum also popularly referred to as the oil boom (Ogbeidi, 2012). For instance, the Pius Okigbo's Report of 1994 on the Reform and Reorganization of Nigeria's Central Bank indicted the military especially during General Babaginda's Regime of massive Corruption. The report noted that the military rulers squandered more than \$12 billion dollars of oil revenue between 1988 and 1994 and more than a third of the country's total foreign debt was spent in less than six years.

Consequently, after about twenty-nine years in government the military wasted Nigeria's resources in what could not be considered as regenerative investment nor economic importance.

2.5 Corruption in Nigeria's Fourth Republic; 1999-2015

The growing global and local demand for democratic governments to be established in Africa in the 1990's led to competitive elections that was aimed at challenging one-party systems and military rule in majority of African states. The fourth republic in Nigeria commenced with the election of a former military leader, Olusegun Obasanjo, as the president of the Federal Republic in May 1999. And hence, since 1999 till 2015, there has been successful civilian transition in the country i.e. from 1999 to 2003; 2003 to 2007; and 2007 to 2011, 2011 to 2015.

The transition from military rule to a civilian rule in Nigeria generated high expectations for good governance and improved economic development. A Key informant interviewee who works with a nonprofit organization recalled that:

“May 29, 1999 in Nigeria was a historic day because many people were not only excited that the military rule had come to an end. But they were also hopeful that the new democratic regime will promote greater participation in government and also minimize the corrupt

activities that characterized the military regime” (NGO Staff, KII, 08/02/2016).

Similarly, an Afrobarometer report at the onset of Democracy in Nigeria noted that 84 percent of Nigerians believed that democracy is the best system of government for the country (Afrobarometer Survey on Attitudes Towards Democracy and Markets in Nigeria, 2002).

However, Nigeria's democracy was ushered in with persistent religious and ethnic crises, pervasive corruption and a depressed economy. Amongst these problems, political corruption seemed more challenging to the future of Democracy in the country. By the time the new government in 1999 took the helm of affairs, corruption had been institutionalized and was endemic in the legislative, executive and judicial arm of government in Nigeria (Bambose, 2010; Iyaniwura, 2014; Okolo et al, 2014). Hence, the new civilian regime in Nigeria started to reproduce many cases of corruption carried out by politicians who were elected to represent the people. Considering the rampant cases of corruption reported in the country from 1999 to date, the study rather attempted to cite some of the major corrupt practices perpetrated by political leaders in the different administration of the fourth republic.

2.5.1 Resurgence of Corruption in Nigeria: Olusegun Obasanjo’s Government; 1999-2007

One of Obasanjo’s foremost policies on assumption to office was the fight against corruption. He noted during his inaugural speech in 1999 that the impact of corruption during the military regime has earned Nigeria a very bad image. He also asserted that there was need to set Nigeria on a path of accountability and transformation (Enwermadu, 2010; EFCC Annual Report, 2012)

Despite his anti-corruption stance, many cases of grand corruption were reported at the different arms of government. At the executive level some governors who served during Obasanjo's government were arraigned by EFCC for corrupt practices involving the embezzlement and diversion of funds, mismanagement and misappropriation of funds, inflation of contracts amongst others (Tell, 2012, and EFCC Zero Tolerance Report, 2013). An EFCC Official revealed that by 2006, 24 governors in the country were already charged with cases of money laundering and award of fraudulent contracts (EFCC Official, O.I, 08/13/15).

The EFCC also revealed a corruption scandal of about N50 million which indicted the former Minister of Education Professor Fabian Osuji in allocation deals that eventually led to his resignation. Another major case of public corruption in Obasanjo's government was that involving a serving Inspector-General of Police, Tofa Balogun who was exposed and arrested on multiple charges, including using his office to embezzle \$128 million dollars (EFCC Report, 2013; EFCC Official, O.I, 08/12/2015). Furthermore, a report of an audit released by the Former Auditor General of Nigeria in 2005 showed loss of about 23 million dollars in the Presidency and National Assembly, with financial frauds that included over-invoicing, payment for jobs not done, and inflating contract figures to release money without approval and due process in ten major ministries (Adesote & Abimbola, 2012).

Several cases of corruption were also leveled against some legislators. For instance, the First Speaker of the House of Representatives in 1999, Salisu Buhari had to step down from his office after a scandal revealed he forged his degree certificate from the University of Toronto. In the same vein, Senate President Chuba Okadigbo was impeached in 2000 for corrupt activities that involved granting approvals for many

contracts without complying to the procedures and inflating the prices for a street light project. In 2005, Senate President Adolphus Wabara resigned after he was accused of collecting a bribe from a minister who was dismissed for corruption (EFCC Report, 2013).

With the rebirth of Democracy, the judiciary in Nigeria was revigorated as the arm of government responsible for upholding the rule of law. However, many cases of corruption specifically involving bribery to influence the administration of justice were reported. In 2004, four judges who superintended the tribunal for the gubernatorial election in Akwa Ibom State were dismissed for bribery. Also, in 2005, an appeal ruling from a Senatorial election in Anambra State dismissed two judges both from the Supreme Court for collecting bribe to change the judgment on disputed elections (Ugochukwu, 2009). A report by the International Commission of Jurists on Nigeria stated that that corruption in the judiciary is still a major challenge in Nigeria and between 2002 and 2005, about 6 Supreme Court Judges and 2 Justices of the Appeal Court were sacked from their posts on charges of corruption, while a number of other judges are under investigation (Report of International Commission of Jurist in Nigeria, 2007). This was an indication that the judiciary had also become a cross bearer of corruption and titling the course of Justice towards those that can afford it instead of upholding the rule of law.

The height of corruption scandals in Nigeria's democracy in Obasanjo's government was reached when the presidency also became a theatre for accusations of corruption between the former President and his Vice President, Atiku Abubakar. A Senate Committee had indicted Atiku Abubakar of corrupt enrichment and diverting US \$145 million from PTFDF fund (Mohammed, 2013; Enweremadu, 2010). The Vice

president who felt he was being witched hunted for his presidential ambition also accused the president of remitting the sum of \$110,000 dollars from a bank in Abuja to a friend and also allegedly linked him with the ownership or management of Transnational Corporation of Nigeria (Transcorp) and the Bells University in violation of the constitution. The two parties later resorted to publishing of cheques in the media, each trying to prove who was more corrupt (Azubuike, 2008; Mohammed, 2013). This unfortunate scenario thus corroborates the view of Bayart, Ellis and Beatrice, (1999) that:

“diversion of funds to private accounts, the failure to allocate resources to the designated target areas, the utilization of institutional resources for private gain, and the utilization of an enterprise's borrowing capacity for improper purposes are the various methods employed by African leaders to enrich themselves" (Baryat et al, 2009).

Obasanjo's early vows and zeal to fight corruption in Nigeria turned out to be a complete paradox as he also soiled his hands with corruption. He handed over to President Yar'Auda after he failed to realize a third term bill in the national assembly.

2.5.2 Umaru Musa Yar'Adua's Short Lived Grand Corruption Stints; 2007-2010

Former President Yar'Adua's government was brief due to his ailing health. However, some corruption scandals still came into light during his administration. Few months after he was sworn in, reports of alleged misappropriation and inflation of funds for the renovation of official residences of the Speaker and Deputy Speaker of the house were released. Following the reports, the First Female Speaker of the House of Representatives in Nigeria, Mrs Patricia Etteh resigned over her indictment for misappropriating public funds worth US\$ 5 million dollars in renovating two

residential apartments and purchase of 12 official cars (Adesote et al, 2012; EFCC Official, O.I, 08/12/15)

In 2009, the EFCC also released a report indicting senior officials for not following due process and inflating amounts for the acquisition of cars for law makers. The report revealed that the Account Officer responsible for verifying payment of vouchers for contracts awarded by the House of Representatives noted that the vouchers were not signed before purchase of the cars (Usman, 2014; Segun & Samuel, 2014).

The late Yar'Adua was also accused for frustrating the investigations of his friends who had been charged for corruption through the Attorney General. This included former Governor Ibori and Governor Peter Odili who had been accused by the EFCC for misappropriation and diversion of funds in their states. The Attorney General, Michael Aondoaka announced in 2007 that future prosecutions in EFCC should be vetted by his office, when it seemed his actions did not deter the Former Chairman of EFCC, Nuhu Ribadu from arresting the governors, Ribadu was put on compulsory retirement shortly after the bold attempt in arresting the governors (EFCC, O.I, 09/12/15; Bolu, 2016).

Most of the scandals under President YarAdua's administration were not investigated due to his ill health and lack of political will. His tenure was cut short after he died of a prolonged illness on May 5, 2010.

2.5.3 Grand Corruption During the Government of GoodLuck Jonathan; 2010-2015

Having served as the Vice President of Nigeria, Goodluck Jonathan formally assumed leadership as president after the demise of Yar'Adua in 2010. He also contested in the 2011 presidential elections and was elected President from 2011-2015. Like in previous administrations, cases of grand corruption leading to loss of billions of dollars were reported in his administration.

The fuel subsidy corruption scandal was revealed in 2012 after a set of audits, investigations, committees were set up to investigate the fuel subsidy policy of the government within 2009-2011. The findings revealed that the implementation of the subsidy policy was characterized by endemic corruption and inefficiency involving fuel importers and senior government officials which cost about \$ 6.8 billion dollars (EFCC Official, O.I, 08/12/15). The investigations further revealed that while the oil importers were paid for 59 million liters per day, the country only consumed 35 million liters. Also, the Minister of Petroleum Allison Madueke had a conflict of interest by being on the board of NNPC, an importer and a supervisor of the subsidy Petroleum Products Pricing and Regulatory Agency (PPPRA). It was also revealed that though the number of fuel importers increased from 5 in 2006 to 104 in 2011, many of the firms only existed on paper and collected subsidies that never existed (Ogbeidi, 2012; EFCC, 08/12/15; Civil Rights Activist, 03/05/16).

Another major corruption scandal related to the fuel subsidy scheme erupted in the legislature involving Farouk Lawal who was the chairman of a subcommittee to investigate the misappropriation of about 3 trillion by different firms, oil companies, and government agencies (Iyaniwura, 2014; Bolu, 2016). The report of the

Committee of the House of Representatives revealed that the NNPC subsidized fuel to many companies including two that belonged to senior public officials without accounting for it. The investigations further revealed that about 15 fuel importers collected more than US \$ 300 million as subsidies without importing the fuel they paid for (Iyaniwura, 2014; Civil Right Activist, KII, 03/05/16). He could not prove his innocence and was subsequently removed from his position as the Chairman of the Committee on fuel subsidy.

The above case of a legislative member saddled with the responsibility of investigating corrupt cases yet also engaging in the same vice portrays the systematic corruption that is entrenched in the country. While the bicameral legislature operated in Nigeria's democracy offers a wider representative opportunity, it has also provided a wider opportunity for grand corruption which has taken a heavy toll on the country's depleting resources.

In 2013, the Central Bank Governor, Sanusi Lamido informed the President that the government-controlled oil company, NNPC did not remit \$2 billion dollars in revenue owed to the state. The President dismissed Sanusi's claim but after an audit was completed on NNPC's account, it was discovered that 1.48 billion dollars was found missing or misappropriated. The amount was truly close to what the CBN governor had disclosed (Bolu, 2016; Anti-Corruption Expert, KII, 03/02/16).

Corruption cases involving Federal ministers were also reported in Jonathan's government. The former Minister of Aviation, Stella Oduah, was alleged to have used public funds to buy two bullet proof cars for 1.6 million dollars at a time when her life was not under threat. In 2014, an ex-minister of interior and four other staff of the ministry collected 676.6 million naira from immigration job seekers. This

turned out to be a fraud that led to the death of 19 applicants and injury of several others due to a stampede in Abuja, and Port Harcourt, in March 2014 during the ill-fated recruitment (EFCC Official, KII, 09/12/2015). The EFCC believed the cash was spent in buying and renovation of personal properties in Abuja. The ex-minister and those involved in the scam were arraigned to court by the EFCC.

The foremost corruption scandal during Goodluck Jonathan's administration was revealed by the new government of President Buhari when a Committee was constituted in August 2015 to investigate the management of funds for the procurement of ammunition to fight insurgency during Goodluck's era. The Committee's report revealed that despite the disbursement of 2.2 billion dollars to tackle insurgency, little or nothing was spent on the procurement of arms. Rather the money was spent on fictitious contracts and campaigns for the 2015 elections (EFCC Official, KII, 09/12/15; Senior Advocate of Nigeria, KII, 16/05/16). The money was allegedly shared by Colonel Dasuki, the Chief Security adviser and other members of the ruling party (Senior Advocate of Nigeria, KII, 16/05/16).

Though Buhari's government had been accused of disregarding court orders and witch-hunting the opposition in the Dasukigate scandal, evidences from investigations and court proceedings of the scandal still show that the 2.2 billion dollars for the procurement of arms was mismanaged by Jonathan's regime (Senior Advocate of Nigeria, KII, 16/05/16). The high level of corruption and impunity of corrupt officials in his government was regarded as one of the main reasons for his defeat in the 2015 presidential polls.

The incidences of corrupt practices in Nigeria tend to be in-exhaustive with continuing devastating consequences for national development. Just when it seems

the most brazen instance of corruption has been reported, the next few weeks' bulletin reports another instance of corruption on a much larger scale committed by persons occupying position of power, influence, and public trust.

The Transparency International Global Barometer Report in 2013 indicated that the public perceived corruption to be very high. 72 percent of respondents believed corruption had increased and only 08 percent indicated it had decreased when they were asked if corruption had increased, stayed the same or decreased between 2011 and 2013. The proportion of Nigerians who were satisfied with democracy had gone down from 84 percent to 55 percent in 2002 (Afrobarometer Report, 2013 and 2002).

Likewise, respondents in focus group discussions, explained that the manner in which billions of naira are stolen from the state with no corresponding improvements in livelihoods has made them lose confidence in the democratic regime (FDG's 21/11/15; 24/11/15; 11/01/16). It is therefore obvious that democratically elected politicians can be as bad as non-democratically elected ones.

2.6 Conclusion

This Chapter examined the prevalence of corruption in Nigeria and maintained that from the colonial period through the first republic, the military regime and the fourth republic, the history of Nigeria has been marred with several cases of corruption against political office holders. It established that despite the oil resources in Nigeria, the country is still wallowing in poverty because the leaders wasted the country's resources through corruption. It noted that the regimes of Murtala and Buhari were characterized by lesser corruption cases. On the other hand, corruption was highly reported during Sani Abacha's regime, Babaginda's regime, Shehu Shagari's government and Goodluck Jonathan's government, showing that civilian

regimes can be as corrupt as military governments. The next chapter interrogated in a similar manner, the dynamics of corruption in Kenya and highlighted major cases of grand corruption in the various governments.

CHAPTER THREE

THE EVOLUTION AND DYNAMICS OF GRAND CORRUPTION

IN KENYA; 1963-2015

3.0 Introduction

Unlike Nigeria, Kenya has had a long history of democracy since its independence without military intervention. However, corruption has also thrived in the country. This chapter examined how grand corruption is manifested in Kenya. It analysed the general dynamics of corruption in Kenya and the emergence of grand corruption from the colonial era to the governments of Jomo Kenyatta, Moi, Kibaki and Uhuru Kenyatta's government. It argued that grand corruption in Kenya is manifested in similar manner to Nigeria and many other African countries. However, the peculiarity of grand corruption in Kenya is that it is deeply rooted in the exploitation of ethnic preferences. The manipulation of ethnicity has been a means by which political office holders use national resources to amass wealth and satisfy individuals needs to the detriment of the common person.

3.1 Dynamics of Corruption in Kenya

Kenya is one of the most famous African countries and the biggest economy in East Africa. In addition, the country is relatively politically stable, peaceful, predictable and attractive to investors and tourist (Kwaka et al, 2011). Despite its huge prospects for development and goodwill from the international community, Kenya is one of the countries in Africa that is plagued with high rates of poverty, unemployment and inequality (Annasi, 2004; Ochola, 2009; EACC Report, 2015). A major factor that has undermined Kenya's economic development over the years is corruption (Kivutha, 2005; Chweya et al, 2005; Kwaka et al.). Though Kenya has never been rated as the most corrupt country in the world like Nigeria, it has persistently also

had a dismal performance on the global corruption perception index (TI, 1996-2015). The report by the African Peer Review Mechanism on Kenya broadly mentioned corruption as one of the major obstacles to development and good governance. The Country Self-Assessment report noted that (CSAR) states that:

“Corruption still permeates the Legislature, Executive, Judiciary the military, and the civil service. The perception of the general public is that corruption is pervasive in Kenya and their confidence in the commitment of government to fight corruption has diminished.” (APRM Country Review Report of the Republic of Kenya, 2006).

The Kenya National Anti-Corruption Plan noted that corruption has continually been one of the main challenges confronting Kenya. It has led to misallocation of resources, distorted public policy and undermined good governance. It has also engendered political instability, slowed economic growth and discouraged investors.

The request and collection of bribe is also prevalent in Kenya. Respondents in a focus group discussion identified bribery as a common act of corruption in Kenya. They maintained that it was often done in order to get services and to avoid a penalty. It is common in traffic, securing jobs especially police recruitment (FDG, 10/03/16; 12/04/16). This was corroborated by Anassi, (2004); TI, (2004); Afrobarometer Report, (2015); EACC, (2012); and Hae, (2015) who cited the National Police Service (NPS), as the most corrupt institution of government as it is often accused of taking bribes and kickbacks from offenders in the course of subverting justice.

The Bribery Index Report of Transparency International Kenya (2004) noted that the private sector also has been tainted with issues of governance, irregular participation in public procurement, bribes and getting business licensing. This was confirmed by an oral interview with a business man in Kenya who remarked that:

“Sometimes, one has to engage in over invoicing in order to recover the money used for bribing government officials to win a contract and business deal” (Businessman, O.I, 13/04/16).

In spite of the enactment of the Public Procurement and Disposal Act in 2005, procurement processes in Kenya is marred with reports of corrupt practices and loss of public funds adding up to billions of shillings. Such cases of corruption scandals include the Goldenberg scandal, the Anglo Leasing scandal, the National Hospital Insurance Fund, IEBC BVR kits scandal, the Tokyo Embassy scam, and the NYS scandal amongst others. Nearly 75 percent of those interviewed for the World Bank Investment Climate Assessment Study (2004) perceived corruption as a serious constraint to doing business in Kenya. A Key informant interviewee who works with an anti-corruption non-profit organization noted that reports of senior public officers misappropriating and embezzling public funds is a common form of corruption in Kenya that occurs from the top level of government to the grassroots level. He noted that

“Even the recently devolved counties have been reporting several cases of corruption. In some counties, a gate was reported to cost 7million; opening face book account costs one million while a condom dispenser was bought at 25 thousand” (NGO Staff, KII, 11/03/16).

The immediate past Chief Justice of Kenya, Willey Mutunga had also reported after 120 days in office that the Judiciary in Kenya was challenged with backlog of cases, ineffective case management, excessive bureaucracy, excessive bureaucracy, backlogs of cases, poor terms of services for staff and poor infrastructure, creating a supportive environment for endemic corruption to flourish (ARICOG Report, 2014).

Respondents in a focus group discussion revealed that corruption in Kenya is like a web or cartel that touches almost everybody. But they noted that the political elites are the major players in corruption scandals in the country (FDG, 10/03/16; 21/03/16). Their views were corroborated by the Afrobarometer survey in 2015 which reported that government officials (46%) and members of Parliament (45%) were perceived as most widely corrupt after the police (75%) (Afrobarometer on Development and Corruption in Kenya, September, 2015).

The foregoing indicates that the nature of corruption in Kenya is not distinctively different from that of Nigeria, or many African countries. Apart from the pervasiveness of petty corruption involving bribery of lower public officials to get services done, cabinet members and senior public officials in Nigeria and Kenya have also been also been indicted for grand corruption involving massive embezzlement and looting of state resources. This agrees with Oyugi, (2003) who noted that corruption in many African countries constitutes a vital means of satisfying individual needs and wants in neo-patrimonial societies.

The peculiarity of corruption in Kenya however, is the people's view that ethnic preferences offer hope of survival (Olukoshi, 1996; Murunga and Nasong'o, 2007; Wrong 2009). One of the lasting features of the impact of colonial rule in post-colonial Kenya was a sense of ethnic divide that often finds expression in relation to group identity in the struggle for economic resources (Nasongo'o 2000; Oyugi, 2003). Subsequently, the post-colonial political elites in Kenya controlled the state to allocate resources through a system characterized by regional and ethnic patronage. Oloo 2008 described this as the:

“spirit of corruption that got intertwined with the corridors of ethnicity and bred the ideas such as 'kikyunization' and 'kalenjization' in Kenyan politics.”

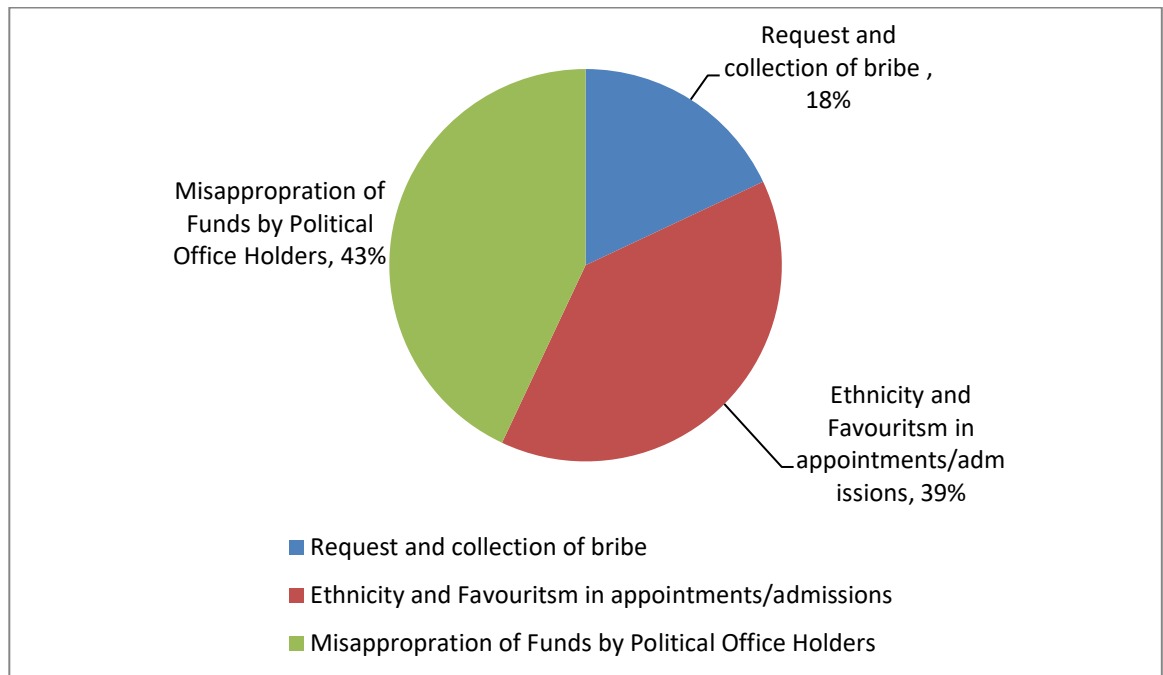


Figure 3. The Worst form of corruption in Kenya

(Source: Author, 2016).

The researcher captured the opinion of respondents in the field who also maintained that ethnicity is a major driving force of corruption in Kenya. 43 percent of respondents indicated misappropriation of public funds by political officers as the worst form of corruption, 39 percent indicated ethnicity and favoritism and while 18 percent indicated that bribery was the worst form of corruption. This opinion reflected in Kenya slightly differs from the findings in Nigeria where a larger 52 percent of the respondents indicated that misappropriation of public funds by political office holders was the worst form of corruption. Most of the respondents in Kenya noted that they had experienced corruption because they belong to a different ethnic group especially during the search for employment opportunities.

In a similar vein, an administrative staff in a university noted that an average Kenyan chance of getting employed are higher if the person knows someone from the same ethnic group who is “highly connected” (University Administrative Staff, KII, 15/03/16). Also, an old man remarked that;

In Kenya, life is very simple. Our proverb is as easy as this; where the elephant lies, grass grows taller. This implies that a group whose son is in power benefits the most (Elderly man, O.I, 22/03/15).

This corroborates the view of Nasongo'o (2000) who asserted that in such a situation where power is treated as an ethnic resource, allocation of resources is tilted to favour the corrupt activities of the incumbent regimes with their supporters. Consequently, nepotism and ethnicity have become key considerations in allocating national resources in Kenya while individuals in positions of power use their influence and power to enrich themselves at the expense of the common person.

The political elites endless struggle for access to state resources has continued to damage Kenya's economy while the political exploitation of ethnicity still threatens the country's stability with cases of violence particularly during elections. A key informant interviewee maintained that the electoral violence in Kenya which occurred in 1992 and 2007 could mainly be attributed to failure of political leaders to respond to long governance issues such as corruption (NGO staff 2, KII, 17/03/16). This view also agrees with Amutabi (2009) who argued that corruption in Kenya centered around the presidency because persons who occupied the presidency misused and exploited the opportunity to accumulate wealth for themselves and their supporters.

The study would further attempt to establish the preceding arguments by interrogating some of the different forms of grand corruption, and governance challenges that had persisted through the colonial era, to the four dispensations of Jomo Kenyatta, Arap Moi, Kibaki and the present Jubilee government headed by Uhuru Kenyatta.

3.2 Colonialism and the Emergence of Corruption in Kenya

The Kenyan nation emerged as a result of the historical relationship between different peoples of Eastern Africa with the forces of world monopoly capitalism (Oloo, 2008). Kenya was a European settler economy with agriculture as its major occupation. The settler's domination occurred through appropriating of land from the indigenous people. Due to this unequal interaction, the African populace became labourers for the European settler and owned only a small share of the land in Kenya (Oloo, 2008; Sundet et al 2009).

Ogot (1974) noted that during the colonial era in Kenya, the very fertile land in the central, coast and rift valley areas were occupied by European settlers while the local people of Kenya became squatters in their own country. Thus, the African person in Kenya was politically disenfranchised, economically exploited, socially segregated and culturally alienated. The unequal distribution of land and the legal restrictions on indigenous Kenyans in some areas to own land and engage in commercial agriculture were among the major grievances that led to the independence struggle (Ogot 1974; Mulinge et al 2002; Brown, 2003 Sundet et al, 2009). A Key Informant interviewee similarly remarked that:

“The colonial masters displaced Kenyans from the fertile lands and took it by force. The forceful collections of lands and the inhuman way Kenyans were treated were some of the reasons for the mau mau revolt aimed at evicting the colonial masters from Kenya” (Elderly man, KII, 22/03/16).

The need for agrarian capital and a proletariat to work for the upper European Merchant class created a tax system that integrated the Kenyan people who were alien to wage labour, into a new established capitalist economy and corrupt system. Mulinge and Lesetedi (2002) argued that it was the manner in which the tax itself was collected rather than its introduction that could be kinked to corrupt practices. Like Nigeria and most of its colonies in Africa, the colonialist used the local chiefs

in Kenya to impose taxes on the people. Mamdani quoted a Commission of inquiry as reporting that:

“The European Officer in Africa is expensive and if his numbers were multiplied, the burden of his numeration would weigh too heavily on the population. Therefore, only from the African race can sufficient qualified men can be obtained at an economic cost” (Mamdani, 1996).

In an attempt to consolidate the exploitative system, the tribal leaders were encouraged to keep a portion of the taxes collected as an inducement. Thus, the financial gains gotten by the local chiefs from the taxes they collected transformed them to willing agents of the colonial government (KNA, DC/KAJ/14/3/52). The Chiefs were therefore a new class of citizens who became aware of their new status and were ready to exert their presence and authority. The practice also amounted to collecting of kickbacks and gave a new meaning to the culture of gift giving which had existed in different forms in Africa before the arrival of the colonialist. The practice of giving rewards to the tax collectors developed into a major means private and primitive accumulation of property. This sometimes blinded the chiefs to the suffering of their people (Mulinge and Lesetedi, 2002).

Apart from forceful occupation of land and exploitation as a result of the tax system, colonialism also deepened tribal differences in Kenya. One of the major impacts of the British rule in Kenya was the entrenchment of tribal differences at the detriment of a wider national agenda (Murunga and Nasong'o 2007; Oloo, 2008; Amutabi, 2009). Because of the narrow correlation of division of labor and socio-economic stratification in the colonial economy, ethnic consciousness and identities were reinforced in many parts of Africa. Wrong (2009) argued that while it cannot be certainly argued that colonialism created tribal differences in Kenya, it certainly became the major standard for determining a citizen's chances in life.

The divide and rule system adopted by the British involved favoring one tribe over others with the purpose of obtaining loyalty of that group to the colonial administration and encouraging rivalry between different tribes to prevent a sense of unity from evolving and threatening colonial rule (Olukoshi, 1996; Mamdani, 1996). Consequently, certain artificial clusters were baptized “tribes” even though it was often a convenient fiction to suit certain political agendas. An example is the appellation, “Abaluhya” to refer to several distinct linguistic groups (Samia, Abakhayo, Marachi, Manyala, Wanyore, Ikhisa, Tiriki, Maragoli, Bukusu, Isukha, Idakho, Marama) as one tribe. The same goes with the “Kalenjin” cluster which brings together groups such as the Kipsigis, Nandi, Tugen, Keiyo, Marakwet, and Pokot (Wrong, 2009). Amutabi, 2009 noted that it is for creating tribal differences and disunity that the colonialist banned nationwide social and political organizations but restricted people to such organizations like the Kikuyu Central Association, the Ukambani Members Association, the Kavidirondo Tax Payers association, the Taita Hills Association and so on.

The entrenchment of tribalism during the colonial period further encouraged nepotism, embezzlement of public funds and other corrupt practices in Kenya. It also laid the foundation of neo-patrimonial practices in the post-colonial era particularly during the coffee boom and the introduction of the structural adjustments programs by IMF and World Bank (Oyugi, 2003; Brown, 2003). When power was transferred from the colonial administration to the Kenyan’s in 1963, some features of the recent political situation were already put in place. However, the tribal differences in the colonial era of Kenya did not prevent the indigenous groups from coming together as a joint force to struggle for national independence.

3.3 Independence and Jomo Kenyatta's Kiambu Family Kickbacks; 1963-1978

Jomo Kenyatta was one of Kenya's prominent anti-colonial activists. After being appointed as the Chairman of the Kenya African Union (KANU) in 1947. The KANU secured victory in the 1963 general elections. As the prime minister, he supported the government into becoming a republic in 1964, thus becoming the president of Kenya (Oloo and Oyugi, 2002).

The immediate post-independence period in Kenya was characterized by considerable euphoria not only because of the political gains but because of a pervasive optimism that it was indeed possible to bring about the so-called revolution of rising expectations (Balogun and Mutahaba 1983). However, like so many African leaders of the 1960's, the first president of Kenya, Jomo Kenyatta did not overturn but rather inherited and maintained the system left behind by the colonial masters. Only this time, it was people from his community particularly the Kiambu area that benefited from the opportunities and resources previously enjoyed by the white men (Oloo and Oyugi, 2002; Amutabi, 2009).

Despite the fact that the government kept alluding to Kenya as a country and deemphasized ethnicity in its open proclamation, its policies conceded a different message (Amutabi, 2009). A Key Informant Interviewee pointed out that Mzee Jomo Kenyatta was a great leader but after independence, he empowered only a clique of people who mostly constituted his extended relatives, people from his tribe and a few individuals from other tribes who were loyal to him. The informant remarked that:

“By the 1970's, Kikuyu's were very powerful in government because the civil service, security force and strategic government appointments were all occupied by them” (Former Politician, KII, 19/02/16).

Oloo (2008) and Amadi (2009) noted that Jomo Kenyatta's tendency to favour his ethnic group may have been prompted by the fact that after independence, the Kikuyu's increasingly replaced the European settlers as the predominant bourgeois. The concentration of power therefore had a lot to do with the desire to protect the

petty bourgeois and the Kikuyu's interest. They further argued that the desire to protect the petty bourgeois continued to design power struggles in the successive regimes. The Moi's regime centered on breaking the hegemony of the Kikuyu while the Kibaki's administration tried to revive the hegemony of the kikuyu.

Neopatrimonialism practices during Jomo Kenyatta's government was not only limited to allocating resources to political supporters. He also took advantage of his rigid tenure in office to ban partisan opposition which further reduced levels of accountability and consolidated ethnic patronage. In an attempt to consolidate his power, Kenyatta created an imperial presidency which generally concentrated the power at the center of government. He also created a presidential system that resulted in a one-party rule by banning the only opposition party Kenya People's Union (KPU) (Oloo, 2007; Amutabi, 2009). As a result, the constitution was amended several times from 1963-1978 with the express intent of consolidating power (Oloo and Oyugi, 2002). The absence of available statutory order which regulated the powers of the judiciary, executive and legislative in the constitution consequently aided the abuse of power and corruption.

The Kenyatta's stifling of a nascent multiparty democracy also produced manipulative ethnic relationships and strategies of repression such that involved detaining those who opposed his government. Although he rewarded his loyalist, he was retributive of those who opposed his government and of his major critics have been reported to die in mysterious circumstances or suffered long jail terms on trumped up charges (Osaghae, 1994; Wrong, 2009).

During Kenyatta's era, the ability of parliament to check the powers of the executive was destroyed (Oloo, 2007; Mutala et al, 2013). Owing to this political scenario in

Kenya, corruption became a lifestyle for political office holders while the Presidency was used a key office to plunder from the state treasury. Ethnic Preferences also dominated senior and low levels of government while political appointments produced power and wealth for the holder. This flowed down to the home areas through preferential allocation of development funds (Kiai, 2008; Multala et al, 2013). Wrong (2009) and Amutabi, (2009) revealed that:

“By the end of the Jomo Kenyatta era, there were 35 Kikuyu District Commissioners of the 41 positions, 5 Kikuyu Provisional Commissioners out of the 8 Provisional Commissioners and 13 permanent Secretaries out of the 19 available. The Kikuyu who accounted for 20.8% of the population claimed between 28.6 % and 31.6 % of the cabinet seats while the Kalenjin accounting for 11.5% of the population held between 4.8% and 9.6%. With Moi's arrival, most of this post fell to favour the Kalejin” (Wrong, 2009; Amutabi, 2009).

The Coffee boom of the 1970's in Kenya also encouraged corruption and neo-patrimonial practices because it made some Kenyans who were politically connected to become quick millionaires through illegal purchase and sale of coffee” (Former Politician, KII, 19/02/16). The boom which occurred at a result of the shortages of coffee from Brazil and the trade embargo imposed on Idi Amin's Uganda made Kenya a strategic country for the sale and production of coffee. This positively impacted Kenya's economy and revenue (Bavan et al, 1989; Kamau, 2013). For instance, in 1977, the balance of payment recorded 2.2 Billion surpluses, foreign exchange reserves reached a record of 2.1 billion Shillings, and the supply of money also increased by 47 percent (Bevan et al, 1989). However, some Kenyan elites took advantage of the coffee boom and engaged in illicit smuggling of coffee. The gravity of the smuggling was exposed when a Labour Minister Ngala Mwendwa told a meeting that the smugglers were senior government officials who use government vehicles thus making it difficult for security officials at the borders to question them.

It was also alleged that the income of the elites who benefited from the trade was not usually taxed by President Kenyatta (Hornsby, 2012; Kamau, 2013).

Since land was often used as a tool for political corruption in Kenya, the post-colonial elites and the powerful KANU members continued to illegally allocate public land to prominent personas and companies so as to get political support in return (Kithinji et al, 2016). As Oyugi, (2003) and Anassi (2004) argued, the post-colonial leaders in Kenya started engaging in massive land grabbing and embezzlement of state resources. Instead of sharing the land amongst people who were involved in the struggle for independence, land became a tool for drawing support and rewarding the allies of the president. This was confirmed by surveys conducted by the Ethics and Anti-corruption commission which indicated that the Ministry of Land and Survey have persistently rated among the top five most corrupt institutions of government in Kenya since independence (EACC, 2013). Gross abuses and misuse were prevalent in the administration and the management of public and community land mainly characterized by influence peddling, illegal alienation/excision/ land grabbing and market distortions.

Like most immediate post independent African leaders, Jomo Kenyatta embarked on the vigorous task of building a multi-ethnic country into 'one nation'. However, the nation building project with time took the form of a unitary process which was ethnic based and also centered on a system of patronage of networks linking other groups and elites.

3.4 The Goldenberg Scandal and the intensification of Corruption in Moi's Regime Kenya; 1978-2002

Daniel Arap Moi took the reins of leadership in Kenya after the death of Jomo Kenyatta in 1978. Moi's government made an immediate pronouncement that it will continue with the footsteps of its predecessor and retain investor's confidence. It developed an ideology, called 'nyayoism', which comprised of elements such as Christian morality, developmentalism, nationalism, anti-tribalism, and African socialism. Nyayoism was often regarded as Moi's attempt to enforce his political idiosyncrasies on Kenya's political arena (Chweya, 2005; Amutabi, 2009; NGO Staff 2, KII, 17/3/16). Amutabi (2009) however maintained that contrary to its portrayal as an avenue for galvanizing people for development projects, 'nyayo' was a vague ideology, which equated opposition against Moi's rule with 'anti-nyayoism'.

Moi's regime perfected the neo-patrimonial practices of the Kenyatta's government as he centralized power in his person while the party became a center for conflict. The regime continued with the legacy of control in public affairs with no concerted effort by the government to fight corruption. It intensified efforts in centralizing and consolidating power around the presidency by constant amendments of the constitution. Moi stifled opposition and created a one-party state that aided an authoritarian rule and patrimonial patronage in his government (Nyong'o 1989; Oyugi, 2003; Oloo, 2008).

A respondent noted that:

“KANU's Moi's regime also suppressed any opposition to the government. The government arrested and detained some members of the academia and media who spoke against it. Many were therefore afraid to oppose the government's that were often repressive” (Civil Right Activist, KII, 17/03/16).

The effect of the government's authoritarian tendencies led to the state becoming stronger while the civil society and other institutions of government became weaker.

Another informant opined that though it was not officially stated,

“a KANU identity was sometimes essential for promotion in the civil service or access to loans and state resources. The appointments in government also favoured his ethnic group the Kalenjin and those who proved loyal to him” (Auditor, KII, 21/03/16).

The nepotism in Moi's government led to an increase in the cabinet post of the Kalenjin from 11.5% to 22 % while the permanent secretaries soared from 4.3% to 34 % (Wrong, 2009). The persistent corruption in public ministries, state corporations, banks and financial institutions during Moi's government negatively affected Kenya's economic performance and discouraged investors and development partners who could not continue to operate in a hostile political and economic environment (Brown, 2003; Wrong, 2009).

The peak of series of corruption in Kenya was manifested in the Goldenberg scandal which was hatched and executed between the years 1991-1993. The scheme involved Goldenberg International, a company owned by Kamlesh Pattni and former spy Chief James Kanyatou who had proposed to export diamond and gold jewelry and was thereafter compensated by the government for earning foreign exchange. The company was reported to have received \$600 million dollars of tax payer's money within three years but did not actually export any gold and diamond Jewelry as it fictitiously claimed (Chweya et al, 2005 Kwaka et al 2011; Hornsby, 2012; NGO Staff 2, KII, 17/03/16).

As common with most corruption cases in Africa, the powerful connections with the state facilitated the Goldenberg scandal. The company exploited the period when Kenya experienced crises of foreign exchange in addition to the threats to cut off aid

if the government did not implement political and economic reforms (Lawson, 2009; Hornsby 2012). A Key informant argued that that:

“The Goldenberg fraud was also possibly executed because the government of Daniel Arap Moi was also desperate for money to finance national elections of 1992 being the first time that the presidency and KANU were being challenged in democratic elections (KII, Civil Rights Activist, 17/03/16).

The Goldenberg was estimated to have cost Kenya more than 105 of its annual GDP and depressed Kenya’s economic, political and social structures not only within the years the fraudulent deal occurred but years afterwards (Martini 2012; TI Kenya, 2009).

The struggle for political liberalisation, locally by political parties, religious groups and civil society organizations and internationally by the World Bank and the International Monetary Fund, as well as by the government of the United States of America in the late 80's and early 90's began to mount significant pressure upon Moi’s government. After several years of power through a one-party system, there was need to create space for competitive elections and politics (Oloo and Oyugi, 2002). The demands centered on the participation of the people in decision making, because the government and the ruling party often imposed decisions that promoted parochial and individual political interests rather than the public good (Oloo & Oyugi, 2002; Murunga and Nasong’o 2007; Kanyinga, 2014).

Moi's government gave in to pressure to end one party rule in 1991. The government approved the restoration of multiparty system in 1992 and general elections involving more than one party were held for the first time since elections of 1966 (Oloo, 2001; Oyugi 2003, Murunga and Nasango, 2007). President Moi and the ruling party exploited the existing culture of corruption and ethnicity to break

through the multi-party system. Consequently, the political system was characterized by bribery and rigging particularly from the ruling party in desperation to get the people's vote. Also, series of electoral and ethnic violence particularly in the Coast and Rift Valley Provinces erupted in the country. The crises were further aggravated by politicians in their attempt to remove those from the opposition in areas they considered as they strongholds (Kithinji et al, 2016; Civil Rights Activist, KII, 17/03/16).

Alliances during the multi-party system were based on elite arrangement instead of principles of Democracy since Moi's regime did not embark on constitutional and economic reforms that will enhance freedom of information and a vibrant civil society which was necessary to enhance good governance. The political parties were also not driven by ideology but represented personal interest disguising as ethnic interest while elite interest was covered as the popular interest of the people. (Oyugi, 2003; Oloo 2007; Hornsby 2012). Thus, the country continued to witness continuity of past authoritarian practices, increase in ethnic conflicts and high inflation rates as a result of the patrimonial practices in government. The government also clamped down on protest and marches using its courts and Parliamentary General Service Unit to arrest those who were opposed to government often on false charges. This consequently escalated to ethnic suspicion and clashes among Kenyans. The predominant Kikuyu community which were at the fore front of opposition were also the major targets of state sponsored oppression and ethnic clashes (Oyugi, 2003; Journalist, KII, 08/03/16).

Ethnic clashes erupted from the 1992 and 1997 multi-party elections with high casualties from members of the Kikuyu ethnic group, and others such as the Luhya,

Luo and Kisii (Amutabi; 2009; Journalist, KII 08/03/16). President Moi hastily blamed the violence to the consequence of the multi-party system he had advised the country against (Amutabi, 2009). According to the Kiliku report of 1992, over 3,000 people were killed in the ethnic violence while thousands were displaced, and since they were outside the areas in which they had registered to vote, their votes were rendered useless. The ethnic cleansing was seen as a pre-emptive move by KANU operatives to disfranchise the Kikuyu and other ethnic groups in the vast Rift Valley province. In the absence of an organized and effective opposition, President Moi, won the elections held in 1992 and 1997. He retired in 2002 as a result of the constitutional bar that restricted him from contesting for the third term.

3.5 The Anglo leasing Scandal and the Struggle for Control of State Resources in Mwai Kibaki's Government; 2002-2013

In 2002, Mwai Kibaki came to power as Kenya's third president after winning the December 2002 general election under the National Rainbow Coalition (NARC) platform. The NARC coalition was an alliance of the Kikuyu, Luhya, Luo, Kamba and Maasai which was formed to contest KANU's forty year's grip on power (Civil Rights Activist, KII, 17/03/16).

NARC had won the elections on the promise that it would initiate economic and political reforms, fight corruption and promote good governance, Due to this, there was much hope and expectation that the government would end the culture of impunity and corruption in Kenya (Oloo, 2008; Kwaka et al, 2011.) A respondent recalled that:

“There was jubilation across different tribes in Kenya when President Kibaki won the elections in 2002. Many people were excited that the high level of tribalism and corrupt practices which was almost destroying Kenya's economy was over” (Civil Rights Activist, KII, 17/03/16).

On assumption to power, the new government implemented some good governance reforms, which included initiating a constitutional fight against corruption by establishing the KACC and setting up a Governance and Ethics Department. However, the government soon left the reforms it started particularly after the party alliance broke up due to its internal differences and struggle over power and allocation of state resources (Gathii, 2009,).

After the break down of the alliance, the NARC like the collapse, NARC, like the former ruling parties started to devise ways of consolidating power for themselves. The clique close to President Kibaki distracted the government from the path of reformation it had embarked on (Kanyinga, 2004). A Key informant noted that “though Kibaki was perceived as a very intelligent leader, he was surrounded by corrupt officials who negatively impacted his government” (Lecturer, KII, 24/02/16). Kibaki’s and his ruling elites began to secure power through every means possible while also abandoning the reform promises it made during the elections (Kanyinga, 2014; Lecturer, KII, 24/02/16).

The NARC government changed the process of reviewing the Constitution and came up with a draft Constitution that protected its political interest and aided its attempt to consolidate power. Thus, the officials that were once eager to fight corruption now relaxed (Lawson, 2009). A Survey by the Kenya National Commission and Transparency International Kenya (2009) revealed that in their first twenty months in office, government officials allegedly spent at least \$12 million (878 million shillings) on luxury cars. The sum of the luxury cars was estimated to have been enough to provide 147, 000 HIV positive Kenyans with anti-retroviral treatments for a year (TI Kenya, 2009).

In 2005, a major corruption scandal known as the Anglo-Leasing procurement scandal which involved the abuse of lease finance or supplies credits to finance security related project came to light. The scandal particularly revealed the corrupt award of contracts for a new passport printing system in which state contracts worth hundreds of millions of dollars were awarded to Anglo Leasing Finance Limited. It was later revealed that Anglo Leasing was not a legal entity. Aside from an address in Liverpool, there was an absence of information about the mysterious company which had so many dealings with the Kenyan government (Gathii, 2009; Wrong, 2009; Amutabi, 2009, Kithinji et al 2016; EACC, O.I, 04/04/16). Several members of the new government were allegedly involved in the scandal. A report by former Kenyan whistle blower John Githongo claimed that President Kibaki himself had knowledge of the affair. The report also maintained that the Anglo Leasing Finance was just one of the many ghost entities used to siphon off government funds into non-existent companies through fictional or overpriced services. A few days after the Anglo leasing scandal came to light, a suspicious refund was confirmed by the Central Bank. As a result, two cabinet ministers were forced to resign, but were then reappointed. However, no report was given by the government (Wrong 2009).

In 2010, around 57 billion Kenyan shillings was allegedly misappropriated in the purchase of property to house Kenya's embassy in Tokyo, Japan by the ministry of foreign affairs. The scandal came into light when Parliament investigations established that the foreign affairs ministry rejected a free house offered to them by the Japanese government. The ministry rather withheld 1.6 billion shillings as allocation for the embassy house and in turn used the money to purchase a house at a much lower value. The minister for foreign affairs Moses Wetang'ula was forced to

step aside to allow investigation though no major prosecution was carried out (Transparency International Kenya, 2012; Kithinji et al 2016).

Apart from the Anglo leasing scandal, and the Tokyo embassy scandal, a report by the Kenyan Anti-Corruption Commission which investigated 12 contracts during Moi's regime and 6 contracts placed in the Kibaki's era revealed that all of these contracts have similar suspicious features which included the absence of subjection to the normal public procurement processes as laid down by government circulars prior to 2001, on the grounds that, among other reasons, the projects were a matter of national security. The report further revealed that while the Central Bank of Kenya was not consulted about financing terms, financing payments were frequently made in advance of goods and services being supplied and were thus apparently being used to acquire those goods and services from third parties, thereby making the Government the true supplier and financier of the projects (KACC Report, 2010; Kwaka et al 2011).

The Transparency International's Kenya Bribery Index of 2007 taken during Kibaki's regime reported that there was little improvement in the public's view of corruption. This was on the grounds that the government itself became overwhelmed with scandals of corruption that reduced its commitment and credibility to combat corruption. The reluctance of Kibaki's government to effectively control grand corruption indicated its lack of political will to promote the governance reforms it had earlier initiated.

The NARC government also got emerged in partisan and factional crises that centered on ethnic sentiments. A Key informant revealed that:

“like his predecessors, President Kibaki also tilted his appointments and cabinet slots towards his ethnic group. This along with the reluctance of the government to honor the NARC's memorandum of understanding created suspicion and a breakup of the NARC coalition” (Retired Public Servant, KII, 16/03/16).

The leaders from other ethnic groups in Kenya including Kibaki's allies like the Meru and Embu started distrusting the coalition government after Mwiraria and Murungaru were sacked. His former allies felt their people were used as the sacrificial lambs following the Anglo-Leasing Scandal. In its quest for survival, the Kibaki regime began to warm up to old KANU members earlier accused of looting the country's resources and causing mayhem and bloodshed (Amutabi, 2009; Retired Public Servant, KII, 16/03/16). For instance, in 2007, the Kibaki's government appointed Moi as special envoy to Sudan on the basis of his “vast experience and knowledge of African affairs.

The deep ethnic suspicion and party conflicts in Kibaki's regime culminated in the 2007/2008 electoral violence in Kenya which lasted for almost two months. Investigations Report by the Independent Review Commission (IREC) on the elections maintained that there were too many malpractices perpetuated by all contesting parties (IREC Executive Summary, 2008). Following a mediation deal, Kibaki continued as president till 2013 while his main opposition leader Raila Odinga, took a newly created post of a Prime Minister.

The above political twist indicates that just like Kenyatta and Moi regimes, Kibaki's regime confirmed that Kenya's political elites were largely ethnic based and centered on consolidating power instead of driving national unity. The pre-election anti-corruption reform promise never materialized due to the ethnic polarizations that President Kibaki's had failed to control.

3.6 The Chicken gate and Other Corruption Scandals in the Jubilee Administration Since 2013

In 2013, Kenyans participated in an election based on a new 2010 constitution. The 2010 constitution included reforms in the judiciary, creation of lower level county governments, reduction in the powers of the presidency and establishment of independent institutions such as the Independent Election and Boundary Commission (IEBC) (The Constitution of Kenya, 2010). In March 2013, the IEBC declared Uhuru Kenyatta as elected President and Deputy President, having received over 50 percent of the votes cast.

Within its first four years, the Jubilee government was also emerged in allegations regarding embezzlement of public resources and graft scandals by high ranking state officials. Reports by the Auditor General showed massive loss of public funds that was unaccounted for each year, embezzlement by government cartels and corrupt private officers (Report of the Auditor General on the Financial Statements for National Government, 2015). While addressing a global meeting of business leaders on anti-corruption in Nairobi, President Uhuru declared corruption as a threat to national security. He directed companies to sign the approved code of conduct before transacting business with Government. He asserted that

“corruption threatens the trust which is core of what it means to be Kenyan. That is why we are very incensed by it. That is why we must end it” (EACC Report, 2015).

According to a study by an international audit firm, KPMG in 2015, Kenya is estimated to be losing more than Ksh500 billion Kenyan shillings or about one tenth of GDP annually from bribery, wasteful spending, tendering fraud and other graft practices.

In 2014, the Kenyan government floated the Eurobond on the Irish stock to raise money for infrastructural development in Kenya. Allegations of corruption was however mounted on the jubilee administration for not accounting for the Eurobond fund especially in terms of the projects it carried out (Private Sector Auditor, KII, 21/03/16). The Chicken Gate Scandal was also disclosed when a British Fraud Office handed documents detailing the scandal in which a Printing firm named Smith and Ouzman was accused of bribing Kenyan electoral and examination officials with a sum totaling Sh59 million. The fraud office used the data that was exchanged between the firm, government officials, procurement purchase orders and shipping invoices to prove their case (Journalist, KII, 08/03/16; Senior Lecturer, KII, 23/03/16).

Major scandals of corruption have also been reported in the devolution ministry and health sector amongst others. Fifty-Two Members of Parliament had also been indicted in a National Youth Scheme corruption scandal. The MP's were contracted by some top political officials in 2013 to build refurbish and equip Huduma centers in 47 counties. Reports from the Parliamentary Accounts Investigation revealed that though they got lucrative tenders most of them did shoddy work in constructing and refurbishing of Huduma Centers. Investigations by the Committee also indicated Kenyans could have lost Sh1.5 billion through irregular contracts and inflated supplies prices at the Devolution ministry. The investigations also revealed that some opposition law makers also reaped big from the NYS scandal through the contracts (The Nation, September 11, 2015; Journalist, KII, 08/03/16). This shows that corruption in Kenya like most parts of Africa cuts across party and ethnic differences. It also confirms the assertion Anassi (2004); Wrong (2009); Kwaka et al

(2011); Kithinji et al (2016) that ethnic differences in Kenya are often polarized by the political leaders in order to propagate their interest.

The manipulation of ethnic division and hate speeches by the political elites to whip sentiments for their political interest is also prevalent in the Jubilee government. This is a further indication that the country is still far from being a nation that is united in its multi-tribal diversity.

An afrobarometer survey on Kenya in 2015 revealed that two thirds (64%) of Kenyans believed that the rate of corruption in the country had increased in the past year (Afrobarometer on Development and Corruption in Kenya, 2015).

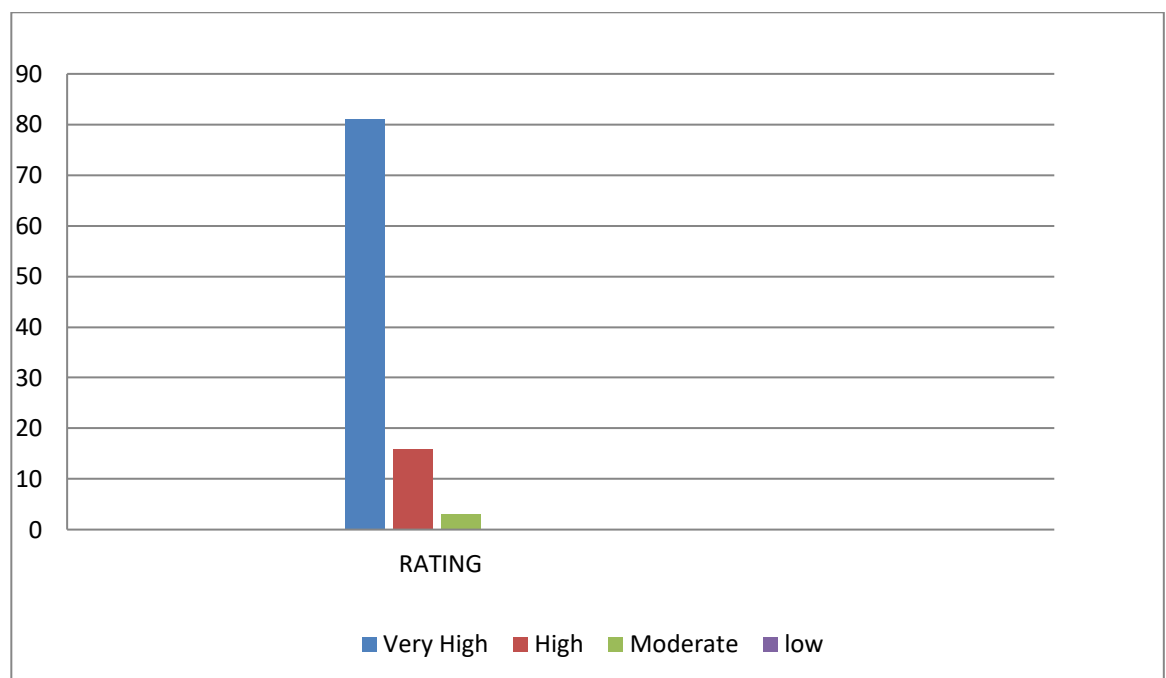


Figure 4. Perceived Level of Corruption in Kenya

(Source: Author, 2016)

The study also sought the opinion of respondents who participated in the focus group discussions and interviews regarding the level of corruption in the country. 81

percent indicated it was very high, 12 percent rated it high, 07 percent rated it as moderate and like the case of Nigeria, no respondent rated the level of corruption low.

The opinions of respondents show that corruption is still perceived very high in Kenya under the present jubilee administration. However, one of the reasons corruption flourishes is on the grounds that it is carried out in secrecy and silence. The fact that silence is no longer shielding grand corruption indicates that significant progress could be realized in fighting it.

Conclusion

The Chapter examined the manifestations of grand corruption in Kenya. It noted that the colonial rule in Kenya was a fertile ground for the growth of corruption because the colonial system encouraged ethnic division and injustice. The chapter also established that grand corruption in Kenya is not significantly different from Nigeria. However, the opportunity for corruption was wider in Nigeria because of the government's control of oil revenue. The peculiarity of grand corruption in Kenya on the other hand is that it is deeply rooted in the exploitation of ethnic preferences. The ethnic divide became a driving force for corrupt practices in the different governments that ruled the country.

CHAPTER FOUR

RESPONSE TO CORRUPTION IN NIGERIA; 1960-2003

4.0 Introduction

There has been increase in anti-corruption policies and institutions in Africa after the World Bank asserted that reforms in the public sector and anti-corruption efforts are vital conditionalities to accessing its programs, loans and aids. However, earlier attempts have been made by the African post-colonial leaders in fighting the scourge of corruption in their countries. From the military to the civilian governments in Nigeria, one mechanism or the other has been put in place to curb corruption.

The chapter interrogated previous anti-corruption initiatives and institutions that had previously been put in place by the government in Nigeria before the establishment of EFCC. This is based on the perception that the foundational basis of the anti-corruption institutions is fundamental in understanding the role of the present anti-corruption institutions.

4.1 Anti-corruption Efforts in the Colonial Era and First Republic of Nigeria

In the early phase of the British rule in Nigeria, the fight against corruption was principally carried out through the traditional courts and police. However, in a particular instance when complaints of corruption were made against some chiefs for mishandling of money, the British immediately terminated their appointments and ordered that they be sent to jail (Falola, 1998).

By 1950's, the colonial administration in Nigeria developed other means of fighting corruption when they realized that the courts and police were also corrupt. It instituted the Commission of inquiries to fight corruption (Osoba, 1996). In 1956, the colonial government set up the Justice Stafford Commission of inquiry with the task of investigating an allegation of corruption against Dr. Nnamdi Azikiwe who was accused of abusing his position as the Premier of the Eastern Region to allow public funds to be used in a private business partnered with. Dr. Azikiwe was indicted by the Commission and his rights in the Bank was transferred to the Governmnet of Eastern Nigeria (Osoba, 1996; Nwaodu et al, 2012).

Another Commission of Inquiry chaired by Justice Cocker was set up in 1962 to investigate the allegations of corruption against Chief Obafemi Awolowo who allegedly used his office as Western Region Premier to invest in a private company. The report of the Commission indicted Awolowo and led to the acquisition of the property of the company by the government. Fifteen other Public Officers in the Western Region were investigated and indicted for using public funds to enrich themselves (NAN, Intelligence Report 1960-1967).

Notwithstanding the panels of inquiry constituted and the action against Obafemi Awolowo, the anti-corruption posture of the political leadership of Nigeria's first republic was lax. Given that the colonial system itself was corrupt, the anti-corruption structure in the era did not have any prospect in curbing corruption. The administrative structure and unjust system which benefited only a few in the society had already damaged the country's potential for accountability (Osoba, 1996). This became a legacy that shaped the immediate post-colonial era, the first republic.

Aside from the Panel of inquires instituted to probe allegations of corruption and the promises to deal with the scourge, there wasn't significant efforts made at confronting the increasing level of corruption during the first republic until the military took over power in 1966 (Azubuikwe, 2008; Akinnola, 2015).

4.2 Military Regimes and Anti-Corruption Decrees in Nigeria; 1966-1999

Noting the bane of corruption in the country, all of the regimes have enacted varying decrees that criminalized different aspects of corruption. After overthrowing a regime in a coup, the incoming regime often denounced the one it displaced and made proclamations on its plans to fight corruption and initiate economic reforms (Diamond, 1995; Mbaku, 2010; Ikubaje, 2013). For instance, even General Abacha who looted about \$5 Billion US dollars from the public treasury declared that the intention of the coup and his seizing power in 1993 was to establish accountability in government (Diamond, 1995). However, since there were no checks on their activities, most of their anti-corruption reforms did not significantly reduce corruption.

The first Military regime headed by General Agyui Ironsi claimed that they came "to rid the country of irresponsible politicians and corrupt bureaucrats, restore respectability and accountability to the Nigerian public service" (Mbaku, 2010). They also asserted that the purpose of the Revolutionary Council is to establish a united and strong nation that will be devoid of internal strife and corruption. Ironsi's regime enacted the Public Officers Decree of No 5 of 1966. The decree empowered the Head of State to require public officers to declare their assets. The regime also set up tribunals and gave them powers to investigate corrupt activities of public

office holders who enriched themselves while in office. However, the government of Aguyi Ironsi did not last and did not make any progress in fighting corruption before it was overthrown by a counter coup in July, 1966 barely six months after it came to power (Mbaku, 2010; Emma et al, 2012; Iyaniwura, 2014).

General Yakubu Gowon's regime which lasted from July, 1966 to July, 1975 promulgated an anti-corruption decree known as the Corrupt Practices Decree 38 of 1975. Apart from enacting the decree, the regime did not make any effort in curbing corruption. A Key informant revealed that though a private citizen Godwin Daboh went to court to swear to allegations of corruption against a cabinet minister Joseph Tarka, one of the several ministers accused of corruption, Gowon still did not sack Tarka. The minister later resigned after intense public criticism (Mbau, 1996; Azubuike, 2008; Nwaodu, 2015). Even though General Gowon 's leadership was hailed as a regime that engendered peace, it was also accused of not being assertive in curbing the corrupt activities of its officials.

General Murtala Muhammed became the Head of State on July 29, 1975, through a military coup that overthrew General Yakubu Gowon. He made notable efforts to combat corruption. His regime instituted a Panel to Investigate the assets of state governors, federal commissioners, and high-ranking political officials. Those who were found guilty of corruption were dismissed and their assets confiscated by the government (Solliun, 2009; Ogbeidi, 2012; Emma et al, 2012; Retired Civil Servant, KII, 10/03/15).

The Operation Purge the Nation Program was also introduced by Murtala's government, to supposedly free the Public system in Nigeria of incompetent,

corrupt, unethical and immorally delinquent civil servants and return respectability and professionalism in the country's public service. The program was in reaction to complaints about the impact of corruption in the civil service especially in the ousted Gowon's regime. The Purge the Nation policy retired over 10,000 public servants in the civil service, judiciary, police and armed forces, public corporations and universities without benefits on the account of age, health, incompetence or malpractice (Siollun 2009; Emma et al, 2012, Retired Civil Servant, KII, 10/11/15).

A key Informant asserted that:

“The anti-corruption measures implemented by the Murtala’s regime temporary reduced corruption in the civil service. On the foreign scene, he was very vocal and vehemently opposed racial tyranny and apartheid rule in South Africa. He was very tough on foreign companies that violated Nigerian laws” (Elder Statesman, KII, 05/02/16).

Murtala Mohammed’s anti-corruption initiative was however viewed by some critics as an aggressive regime to subdue the Nigerian people and in the process, enhance the military's ability to further monopolize political power (Mbaku, 2010; Siollun, 2013). Another Key informant on the other hand argued that operation purge the nation aided the surge of corruption in the public service because the massive retrenchment of public servants created fear and insecurity of tenure. The respondent remarked that:

“The abrupt sacking of staff made some individuals to even steal more of government money because they wanted to save for the rainy day” (Retired Civil Servant, KII, 10/11/15).

Murtala Mohammed could not continue with his anti-corruption efforts as he was assassinated in a repealed military coup in February, 1976. Apart from the radical civil service reforms, the shortness of his tenure limited the impact of his fight against corruption in Nigeria. Despite these shortcomings, Murtala's regime though

brief, was popular and purposeful. He is still regarded as a strong-willed leader who took bold steps in fighting grand corruption in Nigeria. He also kept a low profile and had few escorts while he moved around. This was believed to have made his assassination easier as the only sign of protection he carried was a pistol by his orderly (Solliom, 2013; Elder Statesman, KII, 05/02/16.) Murtala's Chief of Staff General Olusegun Obasanjo succeeded him after he was appointed by the Supreme Military Council.

The Obasanjo regime of 1976 declared a war against corruption popularly referred to as the 'Jaji declaration' in 1977. To fight this war, he established a Corrupt Practices Bureau, an Assets Panel, and a Public Complaints Commission. The government also banned gambling in casinos and pools-betting (Solliun, 2009; Mbaku, 2010). The measures employed by General Obasanjo did not record significant success in the fight against corruption. This was possibly because he could not maintain the radical tempo of Murtala Mohammed in the fight against corruption as his regime was also accused of corrupt practices and political repression. The Nigerian Union of Nigerian Students was banned and many of its leaders arrested. Journalists were also arbitrarily detained for their criticisms of the policies of the government (Falola and Ihovbere 1985; Akintola, 2009. In a particular instance, the military under his regime raided and burnt the house of Nigerian musician and political activist Fela Kuti who was vocal against the corrupt and oppressive tendencies of the government. Fela and his family were beaten and his mother, political activist Fumilayo Ransome Kuti was killed by being thrown from a window. Her coffin was later carried to Obasanjo's barracks as a protest against political repression (Siollun, 2009; Civil Rights Activist, KII, 03/0516).

Nevertheless, one of the fundamental achievements of the regime was that it intensified the promulgation of a new constitution, based on the American presidential system, into law in September 1978 and handed over to Shehu Shagari, a Civilian President in 1979.

During Shagari's government, the Ethical Revolution was initiated to change for better, Nigerian national values which had been tainted by fraud and corruption. Ironically, the period of Ethical Revolution was marked by state officials amassing wealth from public parastatals, boards and ministries to stash as much as possible in an emergent era where fortunes on oil revenue had declined considerably with an interface of inflation and deflation (Folarin, 2012; Ogbeidi, 2012; Elder Statesman, KII, 05/03/16). Alhaji Shehu Shagari did not make any practical effort in curbing corruption as the government was itself immersed in massive misappropriation of state resources. Mysterious cases of arson in federal government buildings most especially before the onset of ordered audits were also commonly reported. This made it impossible to trace evidence of embezzlement and fraud (Siollun, 2013; Elder Statesman, KII, 05/03/16). The high level of corruption of the Shagari's government formed part of the reasons for another military takeover on December 31, 1983 by General Mohammed Buhari.

General Buhari's regime was assertive in curbing corruption and made significant efforts in achieving its goal. On assuming power, the government immediately warned that it will fight kickbacks, inflation of contracts, forgeries, fraud and abuse of office (Azubuike, 2008). It also asserted that one of the central mission of the regime was to free Nigeria from the canker worm of corruption and promote accountability in the society. The regime enacted the Public Property Decree and the

Public Officers (special provision) Decree of 1984 and introduced the War against Indiscipline. Corrupt public officials were quickly arrested and brought before the panel of inquiry. It also seized huge sums of cash and properties of those found guilty by the panel of inquiry. Also, about 300 top officials in the civil service, police and customs were dismissed or retired (Emma et al, 2012; Iyanuwura, 2014; Retired Civil Servant, KII, 10/11/15)

However, the manner in which the fight against corruption in Buhari's regime of 1983-1985 was undertaken was not subjected to the rule of law. Its authoritarian manner eventually degenerated to government arresting people for issues such as 'disorderly conduct and living extravagantly (Mbaku, 1996; Bamgbose, 2010). Also, the regime was also accused of targeting its fight against corruption on a few 'fall guys' and those from the 'wrong' ethnic group (Agba, 2010; Siollun, 2013). As stated in Chapter 2, Buhari's anti-corruption efforts was also tainted by the case of the 53 suitcases of money belonging to the father of Buhari's ADC which were not checked at the airport. This made the regime appear to be selective in its campaign.

The regime was also widely criticized for being too harsh in its anti-corruption efforts. A respondent noted that:

“Buhari's extreme anti-corruption stance led to the execution of a mother of two who was convicted for drug dealing. She was the first woman to be executed by a firing squad in the country. The environmental sanitation in the War against Indiscipline policy was also reported to have unsettled petty traders, road mechanics and hawkers whose shops and stores were often demolished” (Anti-Corruption Expert, KII, 03/02/16).

In its zeal to arrest one of its most wanted public officers indicted for corruption, Buhari's government also allegedly kidnapped Umaru Tanko, the Transport Minister in Shagari's regime and bundled him in a suitcase in a bid to convey him to Nigeria

to face corruption charges. The suitcase was however intercepted at the airport by the United Kingdom officials (Emma et al, 2012; Sollium, 2013; Anti-Corruption Expert, KII, 06/05/16). Though the Nigerian government denied involvement in Dikko's kidnap, the attempted kidnap caused a rift between the Nigerian and British government.

The study observed that Buhari's regime showed a significant commitment in fighting corruption. But because the regime did not rule by the constitution or adhere to the rule of law, its anti-corruption program failed to engage the Nigerian people in a process that would have constrained the state and prevent the custodians of the law from engaging in opportunistic behavior. He could not also consolidate his efforts towards curbing corruption because his government lasted only two years before it was overthrown by General Ibrahim Babangida who Justified his coup on the basis of Buhari's leadership high handedness, poor human rights record and general authoritarian tendencies.

Like his predecessors, General Babangida also made a superficial attempt in addressing corruption. He introduced the Audit Alarm System (AAS) at the local government level. The AAS was to serve as an internal check on the finances of the various local government councils; however, since most of the corrupt practices during the military regime was at the federal and state levels, the AAS system did not achieve much (Diamond, 1995; Azubuike, 2008).

Babangida also set up the National Committee on corruption and other economic crimes. At the end of the committee's hearing, a single national law was recommended to fight corruption and economic crimes in the country. It also

recommended that an independent agency be established to fight corruption in the country. However, no significant action was taken to implement the report of the Committee. The government also constituted a judicial panel which reduced the cases of several corrupt politicians on the assumption that Buhari's action was based on excessive zealotry (Azubuike, 2008; Bamgbose, 2010).

At the expiration of Babangida's regime in 1993, there was generally no attempt to fight corruption as his regime was intent on gaining popularity among politicians and top government officials in the country. Because he achieved that through allowing 'legal and legitimate' loopholes for making money in government, corruption did not reduce but rather reached an alarming rate during his era.

When General Abacha took power, he initiated the War against Indiscipline and Corruption (WAI-C) Project. The WAI-C policy suffered a still birth because Abacha's regime itself was an embodiment of corruption (Kayode, 1999; Senior Advocate of Nigeria, 16/05/16). The regime also set up the Justice Esho's Panel to investigate the activities of the judiciary and make recommendations for its reform. The panel made recommendations for the withdrawal of 47 judicial officers comprising of Chief Justices, High Court Judges and Magistrates. The panel's exercise also ended up in futility as no concrete action was initiated to implement its recommendations (Kayode, 1999; Azubuike, 2008).

General Sani Abacha's anti-corruption initiatives turned out to be a paradox as he virtually privatized the state by appropriating and looting the treasury to himself, his family and friends. A key informant interview remarked that:

“under Abacha’s regime, corruption was authoritatively shielded and endorsed by the barrel of the gun. Abacha took harsh measures in silencing and oppressing any opposition to his government. Many media houses operated underground because he arrested and detained some prominent journalist and civil activist who were vocal against the dictatorial activities of the government (Journalist, KII, 06/05/15).

By the time General Sani Abacha died unexpectedly in 1998, Nigeria gained its infamous rating as the most corrupt country in the world (TI, 1997, 1998). Thus, the military governments which claimed to bring law and order and eradicate corruption, achieved little or nothing in that regard.

The Nigerian military failed to effectively fight corruption because the efforts were founded on corrupt social and administrative structures. Genuine commitment in fighting corruption was also lacking so the measures basically focused on punishing corruption while no efforts were made to initiate preventive programs and mechanisms that will aim at addressing the causes of corruption.

Dike (2005) and Bolu (2015) maintained that since the military in Nigeria captured power in 1966, on a supposed anti-corruption and reform agenda, they have been unable to effectively establish governance structures and resource allocation systems that would have facilitated wealth creation, indigenous entrepreneurship, and enhance the participation of citizens for sustainable development. According to them, the military rule has contributed more than any single factor to making corruption endemic in Nigeria. The several anti-corruption programs put forth by the military government in Nigeria was implemented unrealistically and was not often administered constitutionally. The military often subverted legal procedures in carrying out their anti-corruption programs.

A key informant interviewee on the other hand maintained that controlling corruption during the military era was difficult because the military were not burdened with the need to fulfil their anti-corruption decrees or promises as there was no elections and consequent pressure to appease the people (EFCC Official, KII, 08/12/15). While declaring their anti-corruption decrees, they were also pilfering national resources and sending the proceeds to foreign bank accounts. Therefore, in spite of the committed efforts made by Murtala and Buhari's regimes in fighting corruption during the military dispensation, the military governments were not able to help the country develop a consistent, predictable and fair legal framework for dealing with corruption.

4.3 Anti-Corruption Institutions in Nigeria's Democratic Era

Because of the monumental level of corruption in Nigeria, the need to combat corruption was considered an important public policy issue by the Obasanjo's regime that ushered the fourth republic in 1999. As a result of the urgent call to tackle corruption and make structural changes that would limit its opportunities, the government enacted the ICPC in 2000 and the EFCC in 2003 (EFCC Act 2003; Fagdebo, 2007; Aderonmu, 2011; Adagba, 2012).

To support the work of the institutions, the government also initiated policies like the Fiscal Responsibility Act, Public Procurement Act, Act, Budget Monitoring, Price Intelligent Unit and e-payment to detect and limit financial fraud and other economic crimes deter financial fraud an (Enweremadu, 2012; Adagba, 2012). This section appraised the performance of the ICPC which was established before the EFCC. It will also examine the efforts made by the Code of Conduct Bureau in

fighting corruption through the enforcement of the code of conduct for public officials. Though established in 1979, the Code of Conduct Bureau was re-organized in the fourth republic as an anti-corruption agency and included in the 1999 Constitution.

4.3.1 The Code of Conduct Bureau

The Code of Conduct Bureau is the pioneer anti-corruption agency instituted by the government of Nigeria in 1979 under the Code of Conduct Bureau and Tribunal Act Code during the second republic. It is often referred to as the pioneer anti-corruption agency because it was the first formal legislation which created sanctions for official corruption and other acts in breach of prescribed ethics for public officers in a democratic dispensation. The Bureau did not however commence operation from onset or make any impact because the national assembly did not pass the bill into law before the end of the second republic (www.ccb.gov.ng).

Ten years later, the Bureau got its mandate from the Babangida regime in 1989 and has been in operation since then. It has maintained some sort of permanence with its inclusion in the 5th schedule of the 1989, 1993, 1995 and the present 1999 constitution. Of considerable significance is the fact that the entire code of conduct regime is provided for in the constitution.

The code of conduct was established with the main objective of maintaining a high standard of morality in the conduct of government businesses and to also ensure that the behaviors and action of public servants confirm to high standards of public accountability and morality. It is saddled with responsibilities that include: receiving

assets declared by public officers in accordance with the provisions of the Bureau's act; to examine the assets declaration and ensure that public officers comply with requirements of the act and of any law for the time being in force; to take and retain custody of such assets and declarations; to receive complaints about noncompliance with the breach of the act (www.ccb.gov.ng).

Despite the importance of the code of conduct bureau in fighting corruption, very few Nigerians are even aware of the functions of the Bureau. It has laudable objectives within the pages of the constitution without any serious effort made to implement them (Adagba, 2012; Gashinbaki, 2016; FDG's, 24/11/16; 11/01/16). For instance, the Code stipulates that public officials should not engage in entrepreneurial activities outside their responsibilities as public servants. However, many civil servants in Nigeria undertake business activities while retaining government employment. A Key informant revealed that:

“Some civil servants in Nigeria even sell their services or goods to government agencies without regards to the laws of the Bureau” (Retired Public Servant, KII, 10/11/15).

Regarding the declaration of assets, it is very common for civil servants in Nigeria not to declare their assets or falsely declare them when they are compelled to do so because the assets declared by the public servants are hardly verified by the Bureau (Gashinbaki, 2016; FDG's, 24/11/16; 11/01/16). A senior civil servant in ministry of Education noted that “I filled forms on assets declaration several years ago but I don't know what was done with the form” (Civil Servant, O.I, 04/11/15).

An administrator in a high institution also remarked that:

I have not even submitted the assets declaration forms that had been distributed about two times in my Institution because the Code of Conduct Bureau is not even functional. At least we hear of EFCC on the news” (University Administrative Officer, O.I, 14/12/15)

The above remark implies that punishment for defaulters of the provisions of the code is very weak or sometimes not implemented. Since it is common for those who violate the provisions of the code to walk freely with impunity, most civil servants resort to ignoring the code.

Ever since the establishment of the Code of Conduct Bureau in 1989, it has documented a history of poor performance and has not accomplished much of its mandate. The Bureau has added little or nothing to the fight against corruption yet it continues to get fiscal appropriation each year. Between 2010 and 2014, the tribunal received over 2.6 billion naira as the budgetary votes and appropriations yet there is still very little to show for it (Adagba, 2012; Gashinbaki, 2016). According to a Senior Advocate of Nigeria, the Code of Conduct Bureau has malfunctioned due to a flawed legal framework. The constitution and Code of Conduct Bureau and Tribunal Act do not mark adequate provisions on how the tribunal should be administered. The act also fails to define and demarcate powers and responsibilities within the tribunal. Thus, the tribunal lacks institutional independence and functions under the presidency. There is no effective oversight body, mechanism or system in place to monitor how its constitutionally allocated powers are exercised (Senior Advocate of Nigeria, KII, 16/05/16).

The integrity of the Code of Conduct Bureau as an anti-corruption commission has also been flawed because of corruption allegations leveled against it. In 2015, allegations of corrupt practices were brought against the Chairman of the Code of Conduct Tribunal and some members of the Tenders Board. However, the management of the Bureau denied the allegation and further accused the staff who reported the case of being insubordinate and rude to the superiors (Ibrahim, 2015;

Gashinbaki, 2016). The allegations and counter allegations became a dent on the image of an agency. This coupled with prolonged ineffectiveness of the institution has steered suggestions that the Bureau should either be scrapped or merged with the EFCC in order to save tax payers money (FGD's, 24/11/15; 11/01/16).

4.3.2 The Independent Corrupt Practices and Other Related Offences Commission (ICPC)

After barely six weeks in office, President Olusegun Obasanjo who warned in his inaugural speech that his government will not harbor any sacred cows in the fight against corruption submitted an executive bill titled corrupt practices and other Related Offences bill to the national assembly for passage into law. Consequently, the Corrupt Practices and Other Related Offences bill was passed into law in 2000. The Independent Corrupt Practices and Other Related Offences Commission was also set up in the year 2000 with Hon. Justice Mustapha Akanbi, a former court of Appeal Chairman as President of the Commission (ICPC Act, 2000).

ICPC was given powers to receive and also investigate complaints on allegations of corruption from members of the public, to arrest and prosecute those responsible. The institution was also empowered to examine procedures, practices, and systems of public agencies and to advice on how corruption can be minimized. The commission was also expected to enlighten the public against acts of corruption and other related offences to foster public support in fighting corruption (ICPC Act, 2000; EFCC Official, O.I., 09/12/15).

According to Section 3(3) of the ICPC Act, the Commission will consist of a Chairman and twelve (12) Members. The members should be representatives of the

country's six geo-political zones. The Chairman and Members shall be persons of high moral standing and are expected to declare their assets and liabilities as prescribed in the Constitution before they begin the discharge of their duties. The Chairman shall be a retired Police Officer not below the rank of Commissioner, an attorney with at least 10 years' experience, a retired Judge of a superior court, or a retired Public Servant not below the rank of a Director (ICPC Establishment ACT, 2000, <http://www.icpc.gov.ng/act.php>).

The Chairman of the Commission is appointed by the President subject to confirmation from the senate. The Act also stipulates that the Chairman can only be removed after approval of two thirds of the Senate. The Chairman of ICPC was also empowered with rights to confiscate property under investigation, to obtain information from any person suspected to have committed an offence under the Act (ICPC Act, 2000).

After its establishment, ICPC swiftly commenced operations to achieve its mandate. It was able to charge 49 individuals to court at after three years of operations in 2003. These included a Senior Advocate of Nigeria, a Judge of the High Court and some Chairmen of public and private companies (ICPC Report, 2007; Civil Rights Activist, KII, 03/05/16). Convictions and prosecutions by the Commission however continued to remain minimal despite the increasing large number of cases it continued to receive. For instance, between, September, 2000 and June, 2006 the ICPC only successful prosecuted two persons. By end of 2007, it prosecuted 20. But none of the prosecutions involved a prominent figure (ICPC Report, 2007; Enweremadu, 2010).

The poor performance of the commission has relegated it to a dormant anti-corruption agency while barely any reference is made to it in relation to arresting or prosecuting corrupt individuals in Nigeria. This dismissal performance of the ICPC dampened the high hopes Nigerians had in the Commission's capacity to fight the scourge of corruption. It also serves as a basis for the continual demand to merge the ICPC and the EFCC (Bolu, 2016; FGD, 24/11/15; 11/01/16).

The failure of ICPC to make progress in fighting corruption can be traced to some challenges it encountered from its inception. The first ICPC Chairman, Justice Akanbi, maintained that the commission suffered setbacks due to challenges in funding. The commission heavily relied on internal allocation from government which was grossly inadequate to carry out forensic investigations and tracking of stolen funds in foreign accounts. This also affected its recruitment of staff and obtaining of residential and office accommodation for its key staff. The Commission therefore depended heavily on adhoc staff from other government and security agencies (Akanbi, 2001).

Furthermore, the ICPC spent the early part of its years in a legal battle of jurisdiction on the power of the federal government to legislate on corruption matters within the state government. Some State Governors filed an appeal against the Commission's legal right to legislate within their states. The court later ruled in favor of the Commission but before it won the legal action and commenced operations fully, it had wasted a lot of time on the battle with the state governors (EFCC Zero Tolerance, 2014). The fact that ICPC was constrained by its act to investigate only corruption matters involving public officials also limited its ability to fight corruption in Nigeria.

An Anti-Corruption official noted that the poor performance of ICPC in fighting corruption generated further distrust locally and internationally on the capability of government in fighting corruption. The government of Obasanjo was again pressurized to intensify its anti-corruption efforts which culminated in the establishment of the EFCC, Nigeria's apex anti-corruption in April, 2003 (EFCC Official, O.I, 09/12/15).

4.4 Conclusion

This chapter discussed the various anti-corruption measures that were put from 1960-1966 by the government in Nigeria to fight corruption. It was established that the military in Nigeria who played a dominant role in politics always justified their military coup with anti-corruption agendas. Though Murtala and Buhari's regime made some notable efforts in fighting corruption, the military era did not generally reduce corruption. Most of the anti-corruption decrees in the military era were mere attempts to legitimize their governments. The study maintained that donor pressure and the need to appease the international community was a vital factor for initiating anti-corruption reforms in Nigeria's fourth republic and present democratic regime which commenced in 1999. It also established that the Code of Conduct Bureau and the ICPC had not been effective in fighting corruption. Their poor performance culminated in the establishment of the EFCC which later became the major anti-corruption institution in the country.

CHAPTER FIVE

THE FIGHT AGAINST CORRUPTION IN KENYA; 1963-2003

5.0 Introduction

Like Nigeria, the government in Kenya has also enacted anti-corruption laws and established anti-corruption institutions aimed at tackling corruption in the country. Kenya's legislation at fighting corruption dates back to the colonial era. However, the post-colonial government in Kenya did not make any effort to change the anti-corruption law that was in existence from the colonial period until 1991 after it came under pressure from the international and donor communities.

Since the immediate post-colonial era was characterized by the ruling elite's control of the public and private sphere to consolidate their political and economic power, the anti-corruption laws and institutions were also often subjected to the control and manipulation of the leaders.

This section will attempt to interrogate the institutional frameworks that had been initiated to fight corruption in Kenya, how they have changed over time and the political forces that have aided or frustrated their development.

5.1 The Prevention of Corruption Act and its Amendment

The Prevention of Corruption Act was the first legislation against corruption that was passed by the government of Kenya. The Act was enacted in 1956, when Kenya was still a colony under the British government. The act was produced as a result of

the distorted cultural and social values that governed the way of life in Africa (Chweya et al, 2005). Chweya noted that the enactment of the Act in 1956 was an indication that the colonial administration recognized the prevalence of corruption at the time.

The purpose of the act was to ensure that people who were involved in acts of corruption were caught and punished by the law. The act also emphasized that a certainty of detection was a better deterrent than severe penalty. In this case, a person who offers a bribe and the officer who collects the bribe were guilty of corruption (KNA/ICS/8/318, 1956).

In 1967, Parliament attempted to amend the Prevention of Corruption Act in order to address the issue of the motive of the person offering a bribe. This was because it was difficult to determine the motive of a bribe giver since it could be subjective and interpreted differently. The Act was therefore amended to state that:

“Any person who shall by himself or in conjunction with any other person, corruptly give, promise or offer any gift, loan, fee, reward, consideration or advantage whatever to any person, whether for the benefit of that person or otherwise on account of, any member officer or servant of any public body doing or forbearing to do, or having done or forborne to do, anything in respect of any matter or transaction whatsoever, actual or proposed or likely to take place, in which the said public body is concerned shall be guilty of a felony” (KNA, The National Assembly Debate on the Prevention of Corruption, Amendment Bill 1967)

Parliament agreed that the aim of targeting the person taking the bribe was because some public servants were making mockery of the public service by demanding bribes before performing their duties such as giving permits for building, funeral services and, issuing Kenyan identification cards (Prevention of Corruption Act, Cap 65). Parliament however debated on why a person who offers a bribe should be

guilty of corruption. This was because what would be considered as a bribe might just have been given as a gift or friendly gesture or gratitude. After further debate, no amendment was made to define a bribe. The word 'gift' remained in the Prevention of Corruption Act without further elucidation (KNA, AG/52/ Prevention of Corruption Act Cap 78).

The Prevention of corruption became irrelevant in fighting corruption because of its apparent flaws. Its definition of what constitutes corruption was never clarified. As a result, it was difficult to indict public officials for offences of corruption that was not clearly stipulated in the constitution. Also, the Act did not establish any anti-corruption institution. However, it remained the operating anti-corruption law in Kenya until 1991. Corruption continued to thrive in the post-independence period without much effect to combat it (Anassi, 2004; Gaithi, 2009)

5.2 The Anti-Corruption Squad; 1991-1994

With the increasing demands for good governance from the international community and the civil society in Kenya in the 90's, the government of President Moi was under pressure to make political and economic reforms in the country. During this time also, international donors began to make anti-corruption reforms demands on their recipient countries (GreenHouse 1991; Wrong, 2009). Although political motivations were regarded as the driving force behind aid programs, governments and donor institutions previously linked aid strictly to economic reforms. Kenya had been one of the largest recipient of aid in Africa as it was considered a bright spot for economic and political freedom in Africa (Greenhouse, 1991). Consequently,

President Moi amended the Prevention of Corruption Act of 1956 to establish the Anti-Corruption Squad (Chweya et al, 2005).

The Squad was established as a special investigative unit under the Criminal Department of the Kenyan Police Force and was supervised by a Senior Assistant Commissioner of Police. It also had only few investigators who were paid the same salaries as the regular Police Force (Anassi, 2004; Ogwang, 2007). The Anti-Corruption squad did not make any progress in fighting corruption as it could not charge or prosecute any high ranking public official even though the government was corrupt and relied on a system of patronage and bribery. (Anassi, 2004).

The study highlights the fact that the inability of the anti-corruption squad to prosecute any senior official could also be related to its lack of independence. The Officers supervising the Anti-Corruption Squad probably had difficulties in prosecuting corrupt officials who were their superiors and responsible for their employment and pay. A few number of Policemen would also find the enormous task of fighting corruption in the whole nation difficult.

After barely three years, the Anti-corruption squad was unceremoniously disbanded with accusations that its members had allegedly become corrupt. Also, it was reported that a mysterious fire burnt its office and files held by the squad in Nairobi while investigations on the cause of the fire were not also fruitful (Anassi, 2004; Gathii, 2009).

5.3 Kenya Anti-Corruption Authority (KACA); 1997-2000

The Kenya Anti-Corruption Authority (KACA) was established as a corporate and investigative institution to aid in discovering and curbing cases of corruption after a further amendment was made to the Prevention of Corruption Act (Act no 10 of 1997). President Moi was generally perceived to have established the KACA in order to retain donor aid being given to Kenya by western countries and international organizations. This was particularly because after the Goldenberg scandal, Kenya had lost most of her aid since the World Bank and the IMF suspended aid to the country apart from emergency and critical human development assistance owing to the pervasive and endemic nature of corruption in Kenya (Wrong, 2009; Kwaka et al, 2011).

The KACA consisted of a Director and three Assistant Directors whom were to be appointed by the president after nominees were recommended by the Advisory board. The advisory board was also put in place by the same legislation that enacted the KACA. The legislation was however passed without examining the apparent conflict between the new KACA and the powers of the Attorney General under the constitution as regards to powers to prosecute. This omission later became detrimental to the survival of the anti- corruption body (Gathii, 2009; EACC, O.I, 05/04/16).

The amendment of the Prevention of Anti-Corruption Act as provided in section 11 B specified that KACA was mandated to take action to prevent corruption in public and private sectors and to investigate cases subject to the directive of the Attorney General to prosecute (www.eacc.go.ke).

Unlike the Anti-Corruption squad, KACA's institutional framework was fairly elaborate. The Anti-Corruption Advisory Board also included members from the professional sector, labor, religious, and non-government organizations. The advisory board was mandated to advise KACA and to also ensure that the concerns of the different sectors of the society regarding corruption was made known to the investigators (Gathii, 2009).

Despite the elaborate framework of KACA to enable it effectively carry out investigations and ensure its relative independence from government interference, the institution encountered some challenges after its inception. The first was the general perception that the appointment of the first Director, John Harun Mwau was not based on merit but on political patronage (KNA,364/1323/1998; TI Kenya, 2009). Before his appointment as the Director of KACA, John Harun Mwau had withdrawn his candidacy from the December 1997, Presidential race and asked his supporters to vote for President Moi. Furthermore, the resources at the disposal of KACA were also very limited for the successful investigations and prosecutions of corruption cases (Chweya et al, 2005; Gathii, 2009; EACC Official, O.I, 05/05/16).

A key informant also revealed that:

“one of the major challenges that the KACA faced was political interference particularly when the Commission brought to court top government officials including senior treasury and Kenya Revenue officials for charges of corruption” (Jurist, KII, 29/02/16).

The alleged offenses of corruption were related to fraudulent imports. However, some top politicians like the Minister of Finance reacted that such charges were ill conceived and unacceptable. The Attorney General eventually terminated the cases of corruption presented to the court by KACA. This was on the basis that KACA

proceeded to court without the approval of Attorney General's consent to prosecute as required by the constitution (Gathii, 2009; Jurist, KII, 29/02/16). Though the Attorney General's reasons to terminate the cases of corruption were not persuasive, the Director of KACA Harun Mwau was suspended and removed barely six months after his appointment. The Attorney General was also perceived to be an ally of the ruling elites who were responsible for his appointment.

The study noted that the timing of the dismissal brings into fore the lack of political commitment of the leadership in fighting corruption.

In March 1999, the government appointed Justice Aaron Ringera, a Judge of the high court to head the KACA. An EACC official opined that:

“Justice Ringera made significant effort in building a culture of accountability and transparency in Kenya specifically in enforcement of the law against corruption” (EACC Official, O. I, 04/04/16).

Ringera's effort was however short-lived as a major legal tussle popularly known as the Gachiengo decision brought about the resignation of Aaron Ringera and the eventual demise of KACA. A constitutional court ruling of a case brought by Stephen M. Gachiengo and Muthee Kahuria ruled that it was a breach of the constitution and separation of powers for Justice Aaron Ringera to be a member of the Judiciary and Executive. He was therefore to choose to retain his status as a High Court Judge or to retire and continue as the Director of KACA. The court also ruled that section 10 and Section 11B of the Prevention of Corruption Act, which created KACA and its guidelines to fight corruption were in conflict with Section 26 of the Constitution which gave the Attorney General his exclusive prosecutorial powers. The court ruling further held that the KACA undermined the Commissioner of

Police and Attorney General since its investigative and prosecutorial functions were infringing on the powers vested to these institutions by the Constitution (TI, 2001; Chweya, 2005; EACC Official, O.I, 05/04/16).

The Gachiengo case sealed the fate of Justice Aaron Ringera and terminated the KACA's existence. The ruling was also a major setback to Kenya's fight against corruption. Though the law used in the case was sound, there was a general feeling that that the case was used recklessly to destroy KACA, a body of immense public importance to the country (Jurist, KII, 29/02/16; EACC Official, O.I, 05/04/16).

This study also noted that given the prolonged and difficult battle against corruption in Kenya, the government would have fine-tuned the existing anti-corruption institution rather than disbanding it. This is considering the fact that KACA was of importance in fighting corruption then since there was no other existing institution. The fight against corruption in Kenya is a matter that goes into the root of good governance which is a human rights concern and that support of the judiciary was critical.

5.4 The Anti-Corruption Police Unit (ACPU); 2001-2003

After the KACA was scrapped, the international community particularly the World Bank and IMF were not willing to continue giving aid to Kenya until the government showed a more concerted effort in combating corruption (GreenHouse 1991; Wrong,2009; Civil Right Activist, 17/03/16). According to Wrong (2009), Kenya received a total sum of US\$ 17.26 billion from its foreign allies between 1970 and 2006. At the height of the 1990's, aid from both the international lending

institutions and donor nations accounted for approximately 45 percent of the Kenyan budget. Being a country that was heavily reliant on donor funding, it became imperative for the government to create an anti-corruption body. Several approaches were therefore made to make provisions for the anti-corruption institution in the Constitution to ensure its continuity and avoid legal issues that affected the KACA.

While Kenya was still grappling with the amendments on the anti-corruption legislation, the ACPU was established by the executive power of the President to supervise the fight against corruption on August 2001. President Moi announced that the government will continue to engage the IMF in order to access the US\$21 million in financial support. This was after the IMF Senior representative, Mr Samuel Itam had issued a press statement announcing the indefinite suspension of negotiations on any aid program following the rejection of the anti-corruption constitutional amendment by the National Assembly (Anassi, 2004; Wrong, 2009; NGO Staff, KII, 11/03/16).

Again, like the Anti-Corruption Squad, the ACPU was also part of the Kenyan Police Force and headed by the Commissioner of Police Force. The president did not make it clear whether the unit was to report to him or the Attorney General. The unit was therefore not based on any specific legal framework. Since Kenyans many also know the status of police force regarding corruption, they did not take the anti-corruption police unit seriously (Anassi, 2004; Ogwang, 2007; NGO Staff, KII, 11/03/16).

Moi's government took a step further by inviting a team of British experts to work with the anti-corruption unit. The team was said to have the most accomplished

members drawn from policing, criminology, corruption prevention, intelligence accountability and the prosecution of economic crimes units. This announcement came as the courts were squashing corruption charges against some cabinet ministers while also declaring their unconditional release by the high court (TI Report, 2007). The announcement of engaging experts to fight corruption was viewed by Kenyans as another public relations exercise that would waste tax payer's money and was therefore met with skepticism (TI Kenya, 2007).

A Civil Rights Activist asserted that:

“The skeptical attitude of Kenyans towards ACPU was justified judging from the precedent of Kenyan anti-corruption initiatives. What was required to fight corruption in Kenya was political commitment not a team of international experts” (Civil Rights Activist, KII/17/03/16).

Nevertheless, the ACPU managed to receive new complaints and reports of corruption including those that had been filed by KACA. But because the unit did not have legal authority for prosecuting corruption cases, none of them resulted in conviction and successful prosecution (Gathii, 2009; EACC, O.I, 05/04/16). For instance, a powerful Cabinet Minister, Mr. Kipng'eno Arap Nge'eny was investigated by the KACA and later ACPU for grand corruption. He was reluctantly dragged to court in 2001 by the Attorney General. A High Court however ordered the Attorney General to discontinue actions against Mr. Ng'eny because of the nine-year delay from the time of the alleged corrupt act and the commencement of prosecution against him (TI Kenya, 2007; Gaithi 2009).

The court in this case did not take into consideration that the unexplained delay was for the reason that there was no anti-corruption institution to prosecute government

officials until the establishment of KACA in 1997. The court order did not also take into consideration the sense of transitional justice.

The context of transitional justice was defined by John Githongo (2003) as to take into account past economic crimes and address them in a systematic means to form part of a credible process of anti-corruption not as a white wash of previous crimes. This is particular to corruption crimes that have manifestly impoverished Kenyans. This also implies that the fight against corruption may not be effective if it does not involve the investigation and prosecution of corrupt cases which have happened in the past. The Ng'eny case was therefore a signal that none of the officials investigated for grand corruption by the ACPU would be convicted and prosecuted till a new anti-corruption institution with a legal framework was created. Consequently, the KANU government led by President Daniel Arap Moi exited office in 2002 without making a significant breakthrough in the fight against corruption.

5.5 The Evolution of the KACC

One of the prominent campaign promises of President Kibaki under the National Rainbow Coalition (NARC) was the denouncement of Moi's government as corrupt and the subsequent promise to curb and end corruption in Kenya. Many Kenyans believed Kibaki's election and government would create government reforms and a different way of life in Kenya. President Kibaki had further emphasized during his inaugural speech that the era of 'anything goes' is gone forever and corruption will no longer be a norm in Kenya (Oloo, 2008; Kwaka et al, 2011). A youth noted in an oral interview that even though Kibaki was not from his ethnic group, he was excited when he won the elections. He remarked that:

“I was an undergraduate student and some of us in school had gotten tired of how corruption and tribalism was destroying Kenya” (Youth, O.I, 03/03/16).

After the elections, President Kabaki made immediate efforts to implement his anti-corruption campaign promises and began taking initiatives to curb corruption in various ways. The government created a new Ministry of Justice and Constitutional Affairs to coordinate the anti-corruption efforts in order to make them more consistent and effective (KACC Act, 2003; Oloo, 2008).

Other key initiatives put in place by government was enactment of the Anti-Corruption and Economic Crimes Act (ACECA) and the Public Officer Ethics Act in 2003. The laws were to provide a legal and institutional framework for fighting corruption. The Anti-Corruption and Economic Crimes Act became operational in May, 2003. The Act established the KACC as the main legal anti-corruption institution in Kenya. The objectives of the act were, investigating corruption and economic crimes; preventing corruption and educating the public on corruption (KACC Report, 2006).

The ACECA provided different strategies for the fight against corruption. These included investigation, prosecution, education prevention and recovery of assets. The Act also defined appropriately, what corruption and economic crimes entail. This was a major improvement from its predecessor, the Prevention of Corruption Act which sought to prevent that which it did not define (KACC Act, 2003; EACC Official, O.I, 04/04/16)).

On the other hand, the Public Officers Ethics Act, (POEA) 2003 was established on the bases that fighting corruption will be encompassing and more effective when it is supplemented by other reforms. One of the reforms was to promote integrity and professionalism in the public service through a code of conduct and model standard rather than by the threat of punishment. This was also intended to aid KAAC's fight against corruption since even the investigatory body would not be able to uncover all cases of corruption in the public service (POEA, 2003).

The Public Officers Ethics Act therefore created a provision for a general code of conduct and ethics and ethics for members of the public service to follow. This include carrying out duties and ensuring that services are provided efficiently and honestly not taking bribes, treating others with courtesy and respect proper hygiene and dress, unwanted absences, refraining from using office as a means of personal enrichment, and avoid conflict of interest in discharging their duties. The Act also required that all public service members issue an annual declaration of their wealth within thirty days of ceasing to be a public officer (Public Officers Act, 2003). The President himself submitted a declaration of his own wealth at the beginning of his tenure, signaling to many that he was determined to fight corruption in Kenya (TI Report, 2007).

Apart from the anti-corruption legislation, the government also established an anti-corruption department known as the Ethics and Governance Department. John Githongo a renowned journalist and former head of Transparency International of Kenya was appointed as Permanent secretary/presidential advisor of the Ethics and Governance Department (Wrong, 2009; Kwaka et al 2011).

The initiatives taken by Kibaki's government indicated that there was a positive anti-corruption posture which was different from previous regimes. However, Lawson (2009) argued that President Kibaki's anti-corruption program seemed to be a response to international and national demands for reform, to unfreeze \$1 billion as foreign aid and to fulfil his campaign promises. A Respondent on the other hand maintained that:

“As the founding executive director of the Kenya chapter of Transparency International, Githongo had full credibility with the international community. His radical anti-corruption disposition with the last regime as a columnist in the East African newspaper also gave him a similar level of visibility and credibility with Kenyans” (NGO Staff 2, KII/17/03/16).

His appointment to head a new department of governance and ethics was probably also to probably to send the right message to local and international audiences

Nevertheless, it can be conclusively maintained that the reforms made to the legislative framework implied the government showed more commitment to curb corruption than its predecessors. The enactment of the anti-corruption law, the establishment of the Ethics and Governance Department and the step taken by Kenya to ratify and sign the UN convention against corruption were indicators that there was a significant commitment towards combatting corruption in Kenya (Wrong, 2009; Kwaka et al, 2011). Wrong (2009) noted in a similar manner that the immediate anti-corruption efforts by the NARC government re-ignited expectations in the international community that a post-apartheid South Africa, post Military Nigeria and a revived Kenya could come to form the geographical points for Africa's success.

The KACC was saddled with the responsibility of combatting and preventing corruption by enforcing the law, enlightening the community, and recruiting their support against corruption and prevention corruption by developing good procedures to seal the chances that enable it. Specifically, KACC was empowered to perform the following functions:

Investigative function: One of the clear mandates of the Commission was to receive reports and conduct investigations into corruption and economic crimes related matters. The Commission investigated any matter which, in its opinion, raises suspicion that any conduct that encouraged or constitute corruption is about to occur or has occurred.

Upon request, KACC was also mandated to advise and assist the person or any public body on methods to stop corrupt activities. The institution was also expected to examine the procedures and practices of government agencies with the aim of facilitating the discovery of corrupt activities (KACC Act, 2003). The Commission was also tasked with educating the public about the risks of involving in corrupt activities and other economic crimes. It also had the responsibility of investigating loss to public property and instituting legal action for the recovery, compensation and restoration of the assets to the public, including properties outside Kenya (KACC, 2004).

Though the above functions assigned to KACC seem to indicate that the KACC had been empowered with several methods of fighting corruption. the major weakness in its operational functions was its inability to prosecute offenders. Though the power to prosecute is central to the effectiveness of an anti-corruption institution, the Act

establishing the Commission rather gave the Attorney General the discretion of Prosecuting corruption. Further discussions in the study would show how the refusal of parliament to grant prosecutor power to the commission became a major challenge which resigned the commission to a ‘toothless’ institution that could not ‘bite’ corrupt political office holders.

KACC went into operation on 10th September 2004 after the appointment of its Director Aaron Ringera and Assistant Directors. The appointment of the Director became a subject of controversy when members of the opposition did not initially support his appointment. Nevertheless, he was appointed the Director (Anassi, 2004; TI Kenya 2007; Jurist, KII, 29/02/16).

Despite the relatively broad structure of the KACC which provided for the engagement of civil society and approval of Parliament in the appointment of its Directors, President Kibaki in 2009 by passed the due process in his attempt to reappoint Justice Ringera as the Director of the commission. This brought into doubt KACC’s ability to thrive as an independent Anti-corruption commission. The interference and influence of the executive in the appointment of the head of the Commission became a critical factor in shaping the role of the Commission in fighting corruption.

5.6 Analysis of KACC’s Efforts at Curbing Corruption in Kenya

KACC made progress in identifying corruption related cases as a result of increase in reported cases. The KACC report of 2010 noted that the complaints received by the Commission in that year increased from 309 in January to 752 in August,

indicating the rising awareness about corruption among Kenyans and their increasing confidence in the Commission. This could be attributed to the role the Commission played in educating the public and creating awareness on corruption and its danger in Kenya. An anti-corruption official pointed out that the establishment of KACC boosted the moral of Kenyans in exposing corrupt activities carried out by public officials. The internet-based whistle blowing system introduced by KACC which protected the identity of whistle blowers also encouraged anonymous reporting (EACC Official, O.I, 04/04/16).

However, findings reveal that several cases that were reported were not investigated by the commission because alleged cases of corruption received from the public did not constitute corruption. According to Amukowa (2013), a total of 5, 678 reports were received by the Commission in 2010. After analysis, only 754 merited investigation after being analysed. 1436 complaints required administrative action and were referred to various departments and government offices. This was an indication that many members of the public still had a poor conception of what constitutes corruption.

KACC's role in fighting corruption was also influenced by the early challenges it was confronted with during the appointment process of its first Director, Justice Aaron Ringera. The appointment impacted negatively on the Institution and generated controversy especially from members of liberal Democratic Party who did not initially support the appointment of Justice Aaron Ringera as leader of the Commission. Nevertheless, he was still appointed as the first Director of KACC in 2004 (Gathii, 2009). A key informant noted that the major disagreement started when he was reappointed for a second in 2009 by President Mwai Kibaki without

the consent of the parliament. The Act of the Commission stipulated that the appointment of both the Directors and the Assistant Directors shall be recommended by the Advisory board and approved by the national assembly to their respective positions by the president. In reappointing Ringera however, President Kibaki bypassed the process of nomination by the Advisory Board and the approval by the National Assembly and unilaterally retained Justice Ringera in Office (Jurist, KII, 29/02/16).

Another opinion noted by some respondents was that the government's willingness to retain Justice Ringera negatively affected public perception on the credibility of the Commission and its independence from political interference. This became a subject of much debate and parliament eventually overruled the president leading to Ringera's resignation in September 2009 (TI Kenya, 2011; Jurist, KII, 29/02/16; Retired Public Servant, KII, 15/03/16).

A major defect of KACC in its fight against corruption was its lack of prosecutorial power. Though the Anti-Corruption and Economic Crimes Act attempted several methods of empowering the Commission in the fight against corruption and economic crimes, it fell short of granting it power to prosecute offenders. On the other hand, the Act gave the Attorney General unregulated discretion on whether or not to arraign and prosecute the suspects reported to him by the KACC (Wrong, 2009; TI Report, 2011; EACC Official, O.I, 04/04/16). Considering the fact that the Judicial head was appointed and paid by the executive, most of the cases brought forward by KACC terminated at the Attorney General Desk who was also perceived to be influenced by the President and some powerful political elites (Retired Public Servant, KII, 15/03/16).

This was an indication that while a specialized anti-corruption institution helps to focus and inform the fight against corruption, it cannot replace a judiciary and Police force that were generally perceived as corrupt.

The KACC took some bold steps in charging corrupt officials under Professor P.L.O Lumumba who replaced Justice Ringera as Director of the Commission in 2010. During the first half of his tenure, Foreign Minister Moses Wetang'ula was forced to step down his post after the KACC launched investigations linked to corrupt activities in Kenya's foreign embassies in Japan. The minister for Industrialization Henry Kosgey was also forced to resign after he was indicted for illegal imports at Kenya's port. Cabinet member William Ruto was also forced to resign after being charged with benefitting from illegal land deals (Onyeigo, 2010; Civil Rights Activist, KII, 17/03/16). Lumumba also accused a member of Parliament of allegedly trying to bribe him to stop corruption charges against her. His accusation led to counter accusations from the member and some members of Parliament who accused the Director for using his office to engage in Political attacks (AFRICOG Report, 2011; Civil Rights Activist, KII, 17/03/16). These confrontations were perceived as a case of "corruption fighting back" since many of the members who spoke against P.L.O Lumumba had been connected to KACC investigations. Despite the cases launched by KACC, none of the major investigations amounted to significant convictions, partly because of its lack of power to prosecute corruption cases.

KACC's prosecutorial weakness was glaring in the Anglo-Leasing Scandal which was made public by former Permanent Secretary and Presidential Adviser on Ethics and Governance John Githongo. The report revealed a corruption scandal involving

many high-level officials whom he heard implicating conversations relating to their involvement in the scheme and their desire to hinder him from investigating them (Kivutha et al 2005; Lawson, 2009; Civil Rights Activist, KII, 17/03/16). The Commission and the Attorney General did not proactively investigate or prosecute those indicted in the Anglo leasing scandal. Rather, the officials continued their service in government. The fruitless attempt to bring those responsible indicate an inherent weakness in the anti-corruption institution and why it was not effective in combatting corruption on its own.

KACC's mandate was also not fully entrenched in the constitution. This became a major obstacle to the effectiveness of the commission (Gathii, 2009; Martini, 2012). An anti-corruption official noted that even though sections 26, 27, and 28 of the Anti-Corruption Crimes Act provides that KACC can petition individuals suspected of corruption to declare their property, the commission was often questioned for its constitutional mandate when it carries out such mandate (EACC, O.I, 05/04/16). An example of this limitation was noted by Gathii, who cited the case of Dr. Christopher Murungaru's challenge of the constitutionality of KACC's actions when he was alleged to have acquired some property through corrupt means. The defendant had challenged KACC's action as breaching against the constitution because it violated the presumption of his innocence. He argued that it was the burden of KACC to prove that the property was obtained through corrupt activities. The defendant also argued that the Commission's prosecution was demeaning, inhumane and degrading in contravention to section 74 (1) of the Constitution (Gathii, 2009). Though the court eventually ruled that KACC did not violate the

constitution in charging the defendant, this was one of cases of limiting litigations it faced in fighting corruption and defending its constitutional powers.

Though the fight against corruption in the early phase of Kibaki's tenure showed some promise, the government itself became quickly engulfed in corruption scandals that watered down the credibility of its commitment to fight corruption. This also dashed the hopes of many Kenyans and the international community that the NARC government could curb corruption as it earlier proclaimed. (Lawson, 2009; Martini, 2012; Kwaka et al 2011; Kithinji et al 2016). An oral respondent remarked that:

“I was disappointed that the NARC government could not reduce corruption and tribalism in Kenya as it promised. Though the President appeared to have a genuine intention to fight corruption, he was surrounded by many corrupt officials” (Youth, KII, 03/03/16).

Another respondent stated that:

“Apart from the free primary school education, which NARC introduced soon after it assumed power, the rest of its pledges were abandoned. The crises of ethnicity and corruption that had afflicted Kenya since independence persisted under NARC and became the cause of constant disagreements and consequently bitter fallout between then ruling party and the opposition” (Lecturer, KII, /24/02/16).

The NARC's promise to prioritize constitutional reforms also stalled as it could not agree on the kind of reforms to be undertaken due to the internal struggle for power within its government (Kwaka et al, 2011)

The struggle for power in the government particularly between supporters of President Kibaki and opposition leader Raila Odinga degenerated to the 2007/2008 electoral violence that resulted in more than a thousand deaths. The election was reported to have been flawed with allegations of rigging from both parties, triggering protest and violence (DFID 2009; Martini, 2012, Youth, KII, 03/03/16).

The aforementioned is revealing that the anti-corruption agenda of the Kibaki Presidency was short lived because the government appeared to lack sincerity and commitment to its fight against corruption.

5.7 Conclusion

The Chapter analysed Kenya's anti-corruption journey from the colonial period. It stated that despite the pervasive rate of corruption in Kenya after independence, the post-colonial government did not enact a formal legislation to fight corruption in the country until 1991 when President Moi amended the Prevention of Corruption Act of 1956. It maintained that the desire to appease the international community and access donor funding was a driving force to the establishment of the anti-corruption institutions that were put in place. Because there was no political commitment and enabling environment for fighting corruption, the institutions did not make any progress in fighting corruption. The notable anti-corruption reforms and vibrancy of the Kibaki's era which established KACC also waned because the KACC lacked independence from political forces and had no prosecutorial power to make a significant impact in fighting corruption.

CHAPTER SIX

THE EFCC AND EACC IN FIGHTING CORRUPTION IN NIGERIA AND KENYA; 2003-2015

6.0 Introduction

The previous chapter examined the anti-corruption initiatives adopted by the government in Nigeria and Kenya to fight corruption in their countries from 1960-2003. This chapter interrogated the context of the EFCC and EACC, the apex anti-corruption institutions in Nigeria and Kenya. It also examined the measures they have undertaken to fight corruption and their performance in the period 2003-2015.

6.1 The Evolution of EFCC

Like Kibaki, Obasanjo's anti-corruption campaign was propelled by internal and external pressures to fight corruption. After Nigeria completed a military transition in 1999 from protracted years of Military rule, international and domestic pressure was intensified on its rulers to take drastic efforts in combating corruption which was speedily turning Nigeria to a pariah economy and tainting its image in the international community. The enthusiasm embraced by the citizens and the international community regarding Nigeria's democracy was quickly diminished by the continuation of patrimonial and dictatorial practices during Obasanjo's regime. Several cases of theft of public resources and extra judicial killings were reported in the country (Lawson, 2009; Enweremadu, 2012).

According to the former EFCC Chairman Ibrahim Larmorde, Advance fee fraud, cybercrime, financial abuses in the public and private sectors and other heinous crimes were deeply entrenched in the nation while notorious criminals rode around with impunity and sometimes even enjoyed the protection of security agencies (EFCC Report, 2013). Nigeria was infamously ascribed the most corrupt country in the world. Consequently, foreign investors began to retreat from Nigeria because it had become a global high-risk environment for international financial transaction. In 2001, the country was listed on the financial action task force non-cooperating countries and territories. The continued presence of the country on the list was catastrophic to the economy. This was a hindrance to Nigeria's desire to reconciling with the international community, securing debt forgiveness and attracting foreign investors after many years of diplomatic isolation (Nwaodu et al 2012; EFCC Annual report, 2013; EFCC, O.I, 08/12/15).

The socio-economic scenario of Nigeria by 1999 also coincided with the period were the global fight against money laundering and international terrorism was intensified. The United Nations Convention Against Corruption, the first legally binding international document against corruption was drafted in 2003 (UNCAC, 2003). In its eight chapters and seventy-one articles, the UNCAC obliges its participating states to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices. These measures were aimed to promote the prevention, criminalization, asset recovery, law enforcement, technical assistance, international cooperation, information exchange, and mechanisms for implementation (<http://www.unodc.org>) Nigeria became a signatory to the convention in 2003 and ratified it in 2004. The Transparency international

founded in 1993 also started publishing its corruption perception index(CPI) of countries globally and not surprisingly, Nigeria was placed first or second in the early surveys of most corrupt countries by Transparency International (TI 2005, 2006).

Olusegun Obasanjo who was one of the founding members of Transparency International was under pressure by the international community, to initiate and implement anti-corruption reforms. The government was also promised a debt cancellation after the reforms were implemented. In 2005, about 60 percent of Nigeria's debt amounting to \$18 billion was cancelled by the Paris Club (Enweremadu, 2010; Journalist, KII, 06/05/16).

The EFCC is Nigeria's leading anti-corruption institution saddled with the task of preventing, investigating and prosecution of economic and financial crimes. It is a major departure from previous anti-corruption institutions in Nigeria because of its broader terms of powers, functions and responsibilities (EFCC Report, 2012; Gashinbaki, 2016).

An official of the EFCC maintained that the commission differs from the ICPC in its scope of its powers because if and when it had reason to suspect that an individual or institution had committed any of the economic and financial crimes' laws, it does not wait to receive a formal petition, as was the case with the ICPC. This meant that the EFCC could take more proactive measures to bring corrupt individuals to book before they had sufficient time to cover their tracks (EFCC, O.I, 08/12/15; EFCC Act, 2004). Also, the powers of the EFCC are retroactive, in the sense that offences committed in the past before the establishment of the commission can be

investigated, and any person suspected of illegal enrichment or illicit financial transaction and possessing unexplained wealth relative to his legitimate income can be brought to court. Thirdly, the powers of the EFCC also cover both the private and the public sectors. These wide powers were complemented by its fairly broad administrative structures (EFCC Act, 2004).

The Commission's main responsibilities as outlined under sections 6 and 7 of the establishment Act also include: Examining and investigating all reported cases of corruption and identifying individuals, groups and corporate bodies or groups involved; Supervising, coordinating and controlling all functions, responsibilities and activities related to the current investigation and prosecution of offences related to economic and financial crimes; coordinating all existing economic and financial crimes investigating units in Nigeria; To investigate any person, corporate body or organization that commits an offence under the Establishment or other law related to economic and financial crimes; To conduct investigations into the properties of any person whose lifestyle and extent of properties appears not to be justified by his source of income. To exercise and sustain public enlightenment campaigns, investigate corruption cases; and to identify, trace, freeze and possibly, confiscate properties that were acquired with the corruption proceeds (EFCC Act, 2003; Farida, 2011; EFCC O.I, 08/12/15)

The EFCC is also the designated Nigeria Financial Intelligence Unit (NFIU). The NFIU is the central national agency in Nigeria, responsible for the receipt and analysis of financial disclosure. It has the responsibility of receiving and analyzing financial information (Currency Transaction Reports and Suspicious Transaction Reports) from Financial Institutions and Designated Non-Financial Institutions with

a view to disseminating intelligence information to competent authorities in order to counter money laundering and terrorist financing which is a critical component of Nigeria's anti-corruption strategy (EFCC Report, 2012). The EFCC serves as the National Correspondent Office for the Inter-Governmental Action Group against Money Laundering in West Africa and is responsible for coordinating all activities in Nigeria. It is also responsible for the provision of guidance through the relevant supervisory authorities, as well as reporting entities and intelligence on corruption cases to relevant ministries. It was the focal point for the implementation of the financial Action Task force (FATF) special recommendations (EFCC Annual Report, 2004; Gashinbaki, 2016).

To a great extent, it is evident from its outlined mandate and structures that the EFCC has been adequately empowered with broad powers and responsibilities to tackle most aspects of corruption pervading the public and business life of Nigeria. The scope of powers of the EFCC was intended to make the Commission not just a dog that barks but also one that bites. However, the facts that new corruption cases are reported in Nigeria suggest that the Commission had not justified the elaborate framework in its establishment. The study will attempt to further interrogate the role of EFCC in fighting corruption and its challenges in a comparative manner with the EACC.

6.2 The Evolution of the EACC

In an attempt to try to solve the problems of governance that had plagued Kenya over the years, a revised harmonized draft Constitution was instituted at the end of 2009. The new constitution aimed at dismantling the imperial presidency by creating

clear separation of powers and facilitating checks and balances. In order to deal with the woes inherent in the old constitution, the new document transformed the distribution and management of power (Chapter Six of the Constitution of Kenya, 2010). The most significant feature of the new constitution was the devolution of power to a network of counties, which replaced the powerful provincial administration and by extension diluted the powers of the President. Other features include parliamentary oversight of most presidential appointments and decisions; a senate to review parliamentary decisions; the creation of a Judicial Service Commission; a citizens' Bill of Rights; and a land commission and an independent anti-corruption agency. Article 79 of the Constitution also required Parliament to enact a legislation that would establish an independent body to ensure compliance and enforcement of Chapter Six of the Constitution (Chapter Six of the Constitution of the Constitution of Kenya, 2010).

In August, 2011, Parliament amended the Anti-Corruption and Economic Crimes Act, first enacted in 2003 and passed it as the Ethics and Anti-Corruption Act. This Act established the Ethics and Anti-Corruption Commission (EACC) thereby replacing the KACC as the anti-corruption body in Kenya. The new institution was enshrined in the constitution and mandated to oversee the fight against corruption as well as execute Chapter Six of Kenya's new Constitution. Constitutionally enshrining the EACC also implied that its functions will not be subjected to the control of any person or authority (EACC Act, 2011; EACC Official, O. I, 04/04/16).

The EACC Act widened the scope of crimes that constituted corruption from four to twenty-nine. This list of crimes included bribery of foreign nationals, peddling, bid rigging and cheating of public revenue (EACC Report, 2012).

The functions of the Commission are: Investigating and recommending to the Director of Public Prosecutions for prosecution of acts of corruption; tracing of public assets and instituting court action towards recovery and/or protection of such assets; initiating court proceedings towards freezing or confiscation of proceeds of corruption or related to corruption, paying of compensation, or other punitive or disciplinary measures, and for forfeiture of unexplained asset; preventing corruption through public education and public awareness; conciliation, mediation and negotiation; advisory services to other institutions on matters within its mandate; enforcement of ethics and integrity laws under Chapter Six of the Constitution; partner with state and public officers to promote ethics and integrity; developing and promoting standards and best practices in integrity; developing codes of conduct, enforcing of codes of ethics for public officers; investigating and recommending prosecution for violation of codes of ethics; and monitoring practices and procedures of public bodies to detect corruption (Amukowa, 2013; EACC Report, 2013-2014; EACC Official, O.I, 04/04/16).

In compliance with Section (3) of the EACC Act, the commission opened nine (9) regional offices in Mombasa which covers South Coast, North Coast (Malindi), Lower Eastern (Machakos), Upper Eastern (Isiolo), North Eastern (Garissa), North Rift (Eldoret), South Rift (Nakuru), Central (Nyeri) and Western (Kisumu); and two satellite office in strategic ports of entry, namely Jomo Kenyatta International Airport (JKIA) and Malaba. The commission had opened operation in only five of

its offices in (Mombasa, Eldoret, Nyeri, Garisa and Kisumu). It recently opened six offices and posted officers to Isiolo, Nakuru, Malindi, Machakos, JKIA and Malaba. The six new offices are however still not in an optimal operation because they are not properly equipped (EACC Report, 2013).

However, the Act has, been faulted due to its weak institutional and legal framework. It did not provide for effective transition of KACC to become EACC in a manner that would have guaranteed the protection of on-going investigations. This did not only result in halting the Commission's momentum in on-going investigations of corruption but also created an uncertainty which lasted for months among its staff (Gaithi, 2009; EACC Report, 2012/2013).

Furthermore, an anti-corruption official stated that:

“when the Ethics and Anti-corruption bill was debated upon, Parliament again acted against granting the EACC a prosecutorial mandate. The law makers also contributed to the weak capacity of the Commission because they had another opportunity to strengthen the Commission to fight against corruption by giving it the power to prosecute corrupt officials (EACC Official, O. I, 05/04/16).

Another Key informant opined that the reason for not empowering EACC with prosecutorial powers was controversial. The informant argued that:

“The reason for the proposal to grant prosecutorial powers for the EACC was because the institution was often constrained in its investigations and sometimes blames the Attorney General for its poor performance. However, Parliament still rejected the proposal for granting EACC powers to prosecute when it debated on the bill” (NGO Staff 2, 17/03/16).

The study noted that that though the decision to reject the proposed prosecutorial powers for EACC appeared justified on the surface, there seemed to be political

undertone rather than concern for the effectiveness of the organization. It brings into doubt the sincerity of parliament in empowering EACC to holistically tackle corruption in the country.

Parliament also did not empower EACC to conduct lifestyle audits. Life style audits involve interrogating closely how the expenditure and official incomes of public officer's match. It had been a method that many countries globally including the United States use in fighting corruption (EACC Report, 2013 EACC O. I, 05/04/16). According to the Commission, the failure to grant it the power to prosecute, to perform lifestyle audits and new investigative techniques was another blow to the Commission's desire to escalate the fight against corruption (EACC Report, 2013; EACC Official O.I, 05/04/16).

To this end, it can be concluded that even though the new constitution, provided for a bigger mandate for the EACC, the weaknesses in the EACC's Act indicated that the KACC's transition from EACC was like an old wine in a new bottle.

6.3 Evaluation of the Measures and Performance of the EFCC and EACC in fighting Corruption

The foremost measures that the EFCC and EACC engage in fighting corruption are through investigation, prosecution, enlightenment and assets tracing. An EFCC official revealed that the commission commences its investigations after it has considered the petitions brought before it. Thereafter, culprits who are convicted are then taken up for prosecution in courts (EFCC Official, O.I, 09/12/15). The EACC in Kenya on the other hand recommends the cases it has investigated to the Director

of Public Prosecution where there is sufficient evidence of wrong doing (EACC Official, O.I, 04/12/16).

The investigative function of the commissions is flawed and often criticized by the public because of the prolonged or inconclusive manner they are carried out. This is particularly relating to cases of politically exposed and high-profile persons. It is a common occurrence in Nigeria and Kenya for reports of corruption investigations to start off with much vigor and then fade out without any significant conclusion or conviction (Gashinbaki, 2016; Ibrahim, 2016; FDG's 21/11/15; 10/03/16, 21/03/16).

While the EACC is often publicly criticized for its lack of progress in prosecution, it is important to note that its mandate does not include the prosecution of cases. Though the commission made some efforts in investigating grand corruption as discussed earlier in the case of P. L.O Lumumba, its lack of prosecutorial power is a major impediment to its ability to fight corruption. This is why an oral respondent remarked that “the inability of the EACC to prosecute corrupt cases has consigned it to a dog without teeth” (Private Sector Auditor, KII, 13/04/16). The move by parliament not to empower EACC with prosecutorial power should have been strongly resisted because it undermines the sole purpose of the Act that established the agency considering the fact that it was also the same predicament that led to the demise of other previous agencies in Kenya. Like Kututwa, (2005) pointed out, the power to prosecute is central to every agency established to fight corruption.

Undermining EACC's power to prosecute has denied it the chance to deal with cases that it directly investigated, hereby leading to a higher rise of corruption. An official of EACC revealed that cases taken up for prosecution are less than 10 percent of

cases investigated by the commission (EACC, O I, 05/04/16). Also, EACC's primary function of investigating corruption had not also been very effective because the implementation of anti-corruption policies appears not to be coordinated. Because the constitution specifically created and mandated the EACC, the Judiciary, the Directorate of Criminal Investigations (DCI) and the Director of Public Prosecutions (DPP) to operate independent of each other and of the Executive, they sometimes work so independently that at times they end up in conflict. Thus, there could be conflict between the EACC and DPP in prosecution which produces delay and lack of accountability. For instance, the DPP can in some cases commence investigations afresh and, in the process, delay a prosecution from commencing (Amukowa, 2013: EACC Official, O.I, 04/04/16).

On the other hand, the EFCC was able to secure convictions within a few years of its establishment because of its wider mandate and prosecutor power. Many notorious criminals especially those involved in advance fee fraud also known as 419 were arrested, convicted and jailed (EFCC Official, O.I, 09/12/15). This drove many of the scammers underground. By 2006-2007 the commission charged more than 300 people to court and won 92 of the convictions (Ribadu, 2006). In 2007, 53 more suspects were convicted, reaching 350 convictions by December 2008. The commission also arrested some politically exposed persons for grand corruption. Some of the notable cases of public officials that were arrested, convicted and jailed include Tofa Balogun, a former Inspector General of Police and Diepreye Alamieyeseigha and former Governor of Bayelsa state. More than ten state former state Governors were also arraigned before the court for cases of grand corruption

(EFCC Official, O.I 08/12/15). In 2007, a poll indicated that EFCC was the second most trusted institution in Nigeria (Economist, January 3, 2008).

The study observed that despite some of the notable arrest made by EFCC, convictions regarding politically exposed persons have been minimal. It is often the lower level officials with less political connections, businessmen and fraudsters who end up being convicted. Nevertheless, the measures taken by EFCC in terms of arrest and prosecutions sent a strong message that the Commission was committed in combating corruption and financial crimes in the country. In less than three years after its establishment, the EFCC succeeded in getting Nigeria de-listed from the infamous Financial Action Task Force's list. The corruption profile of Nigeria started to decline gradually. This is reflected in the table below showing Transparency International survey scale of 1.6 in 2004, 1.9 in 2005, 2.2 in 2006, 2.2 in 2007, and 2.7 in 2008

(TI, 2004-2008).

Figure 5: The improving profile of Nigeria in TI's Corruption Perception Index

Year	Nigeria CPI Points	Kenya CPI points
1996	0.69	2.21
1997	1.16	-
1998	1.9	2.5
1999	1.6	2.0
2000	1.2	2.1
2001	1.0	2.0

2002	1.6	1.9
2003	1.4	1.9
2004	1.4	2.4
2005	1.9	2.1
2006	2.2	2.2
2007	2.2	2.1
2008	2.7	2.1
2009	2.5	2.2
2010	2.5	-
2011	2.4	2.2
2012	27	27
2013	25	27
2014	27	25
2015	26	25

Source: Transparency International Corruption Perception Index: 1996-2015.

In their attempt to prevent corruption, the commissions also under took measures to educate and enlighten the public about the dangers of corruption. An EACC Official revealed that the institution is involved in educating the public by its development of an anti-corruption education curricular for primary, secondary and tertiary institutions, sponsorship annual drama for colleges and schools in Kenya (EACC Official, O.I, 04/04/16).

EACC is also involved in undertaking research on corruption issues and publishing the Corruption Perception Index Studies which has further created more awareness on the most corrupt public sectors in Kenya, the causes of corruption and the dangers of corruption ((EACC Annual Report, 2012; EACC, O. I, 04/04/16). The EACC in partnership with the National Anti-Corruption Campaign Steering

Committee (NACCSC) and other stake holders including the civil society, religious organizations, women and youth groups are involved in creating anti-corruption awareness campaign. In achieving this, it makes use of the media anti-corruption programs through radio, television, print media, seminars, workshops, rallies and religious forums and rallies. It also provides technical and advisory services to private and public-sector organizations on ways to prevent corruption (EACC Annual Report, 2012).

When asked about their awareness on corruption issues in Kenya, participants in a focus group discussion admitted that there is an increased awareness about corruption and its dangers in Kenya. They however noted that they do not think the enlightenment program by EACC has aided in reducing corruption since new cases of corruption are still widely reported in the country (FGD, 10/03/16; FDG, 21/03/16). Another oral source remarked that:

“there is no need to educate people about the dangers of corruption if you are not ready to punish those who are convicted” (Private Sector Auditor, KII, 13/04/16).

In the similar manner, the EFCC of Nigeria revealed that it has also adopted the enlightenment and reorientation of the public as one of its strategies for fighting corruption. Through the enlightenment and reorientation unit, it has targeted behavioral and attitudinal changes among the mass media and other advocacy tools. Some of the tools it used were establishing integrity clubs in secondary schools, anti-corruption campaign for enlightening youths in the university and national youth service corp. It also established an Anti-Corruption Advisory Committee and publishes Christian and Islamic Faith anti-corruption manuals to help in sensitizing the general populace and politically exposed persons on the dangers of corruption

(EFCC Official, O.I, 08/12/15). The official also pointed out that in an effort to collaborate with civil society, the EFCC creates programs to engage the citizens to partake in the fight against corruption. Such programs include the Anti-Corruption Revolution Campaign (ANCOR) and the Anti-corruption and Economic Crimes Support Network (ACE Network) which were designed to create awareness and spread the message of probity, integrity, modesty, moral rectitude and other values that will bring about positive change across the country (EFCC, O.I, 08/12/15).

A key informant who works with a nonprofit organization noted that the education and enlightenment programs of EFCC have aided in reducing corruption. She remarked that:

“unlike in the past where public resources were misappropriated with impunity, there is a growing understanding and restraint in looting public funds. The awareness that EFCC is watching has led to a gradual reduction in corrupt practices that were previously accepted and taken for granted” (Civil Rights Activist, KII, 03/05/16).

It suffices to note that whereas the preventive advocacy initiatives of EFCC and EACC is commendable, the Commissions are still a crime fighting organization and their effectiveness would still be measured principally in their ability to successfully investigate and prosecute corruption cases wherever they occur. Like Ibrahim (2015) noted, prosecution is also a form of deterrence and it is therefore important for a commission to be effective in prosecuting high profile crimes. A Key informant in Nigeria maintained that:

“while the masses have become careful and tactical in engaging in corrupt activities because of EFCC, the powerful politicians still engage in barefaced acts of corruption” (Senior Advocate of Nigeria, KII, 16/05/16).

Similarly, a Civil rights Activist in Kenya remarked that:

“we need to see top politicians at Kamtti maximum prison if corruption is to be handled in Kenya. We need to see people going to prison not being transferred from one ministry to another”. (Civil Rights Activist, KII, 29/02/16).

This indicates that the efforts made by the institutions did not significantly reduce the rate of grand corruption in Nigeria and Kenya. That is because the efforts have basically been unable to effectively and adequately constrain and punish senior corrupt officials who engage in plundering of state resources.

6.4 Conclusion

This Chapter examined the context and establishment of EFCC and EACC and the measures that have been initiated in fighting corruption in Nigeria and Kenya. It established that EFCC and EACC have undertaken similar measures that included investigation, instituting court actions, trace and recover public assets and creating public awareness to fight corruption. This Chapter also noted that though the EFCC has been able to secure more convictions because of its prosecutorial power, the convictions are largely people with no political connections. The public awareness and education initiatives seems to have the most significant impact as a large segment of the society is now aware of the bane of corruption. It also established that despite the increase in the level of awareness, new corruption scandals are still widely reported in Nigeria and Kenya. The next chapter interrogated the challenges that limit the commissions from effectively achieving their mandate and lessons the two institutions could derive from each other in their fight against corruption

CHAPTER SEVEN

GAPS AND WEAKNESSES IN THE FIGHT AGAINST CORRUPTION IN NIGERIA AND KENYA; THE CASE OF EFCC AND EACC

7.0 Introduction

Discussions in the previous chapter have established that despite the measures adopted by EFCC and EACC to fight corruption, new corruption scandals have continued to erupt in Nigeria and Kenya. This chapter argued that setting up a legislative framework to fight corruption does not imply that the war against corruption is won. It examined the challenges that limit the capacity of the commissions to carry out their mandate and the lessons for the two institutions with a view to recommend suggestions that would make them more effective.

7.1 Institutional Framework and Logistical Limitations

A critical aspect of an anti-corruption agency is the required experience and training to investigate complex corruption-related offences. This requires the institutions capacity to develop coordinated policies and employ adequate human and material resources to achieve their mandate of fighting corruption (Kutuwa, 2005). However, a common challenge for many anti-corruption institutions in Africa is the inability of the institutions to build their own capacities and perform the functions expected of them. The weak institutional capacity of EFCC and EACC is identified as one of the limiting factors in the commission's ability to fight corruption effectively.

The EFCC maintained that it consists of a large staff strength of 1,989, which includes officials seconded from Nigeria Police Force and other security agencies. The head of the heads of unit also indicated that the commission had an adequate number of staff in its various departments. (EFCC Official, O.I, 09/12/15). Though the staff of the commission seem adequate in terms of its number, experiences in its fight against corruption show that the commission has challenges in staff training particularly in the technical and professional departments.

While it is notable that investigations usually take weeks and sometimes months of building precise evidence, some of the irregularities witnesses present during trials show that the commission still needs to be staffed by persons with exceptional forensic knowledge. For instance, during the Saraki's trial in Nigeria, the EFCC witness seemed to lack knowledge of some issues that were brought up during the trial. The witness admitted during the questioning that he was not familiar with financial provisions like a 'credit card' and 'mortgage redemption' (Ibrahim, 2016).

A key informant pointed out that:

“in recent times, monies are stolen in different ways and transform into various assets across national boundaries. An Intelligence Officer who is not conversant with the dynamics of modern financial will not be helpful in the fight against financial crimes” (Anti-Corruption expert, KII, 03/02/16).

Kenya's EACC on the other hand noted that despite the enormous task the commission was saddled with, it is short staffed especially in the professional and technical departments (EACC Official, O.I, 05/04/16). By 2014, the commission had only 290 officers and 385 as at February 2015 as against an approved establishment of 2,246. Also, KACC started operating at the maximum capacity of 270 four years after its establishment in 2007 (Amukowa, 2013; KACC Annual Report 2006-7).

The researcher also noted that the legal Department of EACC consisted of only 20 lawyers which the commission admitted were grossly insufficient to carry out the herculean task of investigating and fighting corruption in Kenya. This took into consideration that Nigeria's population is almost four times larger than Kenya's and a bigger political class due to its long existing federal structure.

EACC also suffers from low staff complement and poor staff welfare. In its report to the Presidency, the commission maintained that it has been operating a salary structure which has been used over a decade while most of the staff had stagnated for a prolonged period. This has posed a challenge for the commission to remain a competitive employer and be able to attract and retain qualified staff (EACC Report on The Current Status of Corruption Matters under Investigation to the Presidency, 2015). As a result, the EACC lost 20 employees seeking greener pastures in 2014, bringing to total number of staff who have left since its inception to 200. The shortage of human and materials resources has been cited as one of the causes for EACC's inability to successfully conclude investigations of some of its major corruption scandals (EACC, O.I, 05/04/16).

Both EFCC and EACC still grapple with the use of ICT that is becoming outdated and incapable of handling complicated investigations and forensics (EFCC, O.I, 09/12/15; EACC O.I; 05/04/16). With the growing sophistication of ICT and its use for fraudulent transactions, there is need for a reciprocal development and improvement in the use of ICT in fighting corruption. This will also eventually save the time that is used in investigations and prosecution of corruption cases.

The above challenges are a direct derivative to the problem of funding that is also common to the Commissions. One of the major challenges that the EACC and EFCC officials stated was responsible for their ineffectiveness was the limited availability of financial resources. It is almost impossible for the anti-corruption institutions to function effectively without adequate funding because the process of fighting corruption especially in recent times requires employing the required capital and human resources which comes with financial implications. Corruption investigations often require a lot of money, especially when investigators need to travel abroad to track stolen assets or source for incriminating evidence (Farida, 2011; Gashinbaki, 2016; EFCC, O.I, 09/12/15; EACC O.I, 05/04/16).

7.2 Low Public Support and Credibility Opinion

The commissions are also challenged with low public support and low credibility perception. The minimal conviction rate especially in high profile cases has dwindled the public support and credibility of the institutions. An Afro barometer study (2015), across the African region reported that 64% of the people think their government was doing a poor job at handling corruption, suggesting greater efforts need to be taken by governments to clean up the public sector and to punish officials for their corrupt actions. Only a third of people (32 %) think that their government was doing either fairly or very well at fighting corruption (Afro barometer, 2015).

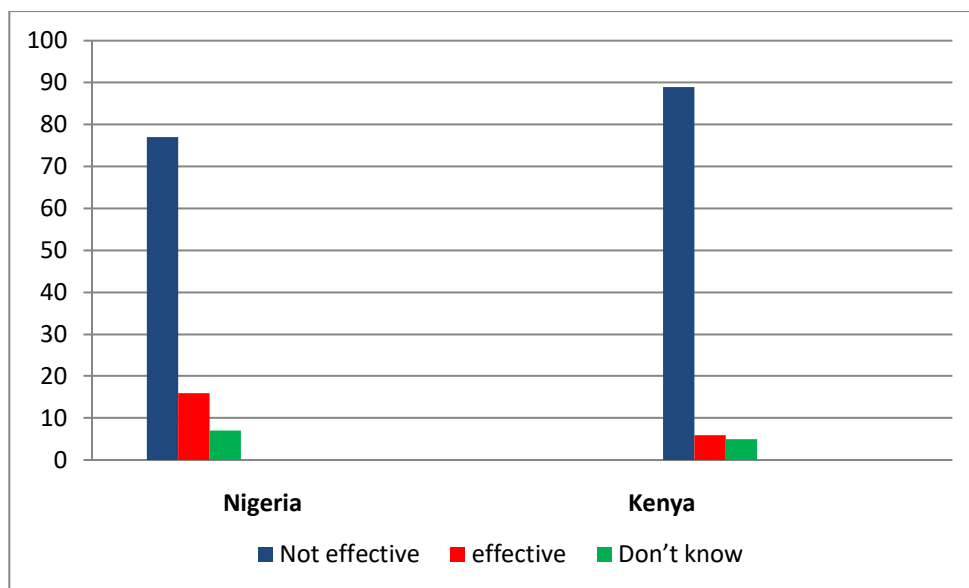


Figure 6. Opinion on the capacity of the EFCC and EACC in fighting corruption

(Source: Author, 2016).

Similarly, 77% of respondents in Nigerian interviewed thought EFCC was not effective in fighting corruption. Only 16% of the respondents believed that EFCC was effective in fighting corruption. In Kenya, 89% of respondents indicated that EACC was not curbing corruption effectively. Some participants during focus group discussions even had a skeptical and cynical opinion of EACC's capacity in fighting corruption and were of the perception that the commission was a waste of the country's scarce resources. Only 6% were of opinion that EACC had the capacity to fight corruption.

The EFCC in Nigeria enjoyed popular support from the public in its early phase because of the radical measures it adopted in tackling corruption especially after some high-profile officers were arrested and jailed (Lawson, 2009; Obuah, 2010; Enweremadu, 2012). For instance, civil society groups formed an alliance in 2007, and expressed their willingness to mobilize 500 lawyers, which included twenty-five Senior Advocates of Nigeria, to support the EFCC in its prosecutions of corrupt

public office holders (Enweremadu, 2012; EFCC Official O.I, 09/12/15). KACC and EACC in Kenya did not enjoy the public support like EFCC. Initial problems arose from the difficulties experienced when establishing the KACC, with sections of the public failing to support the leadership of the Commission. The appointment process of directors also became the subject of controversy between Parliament, the President and the leadership of the EACC (EACC Report, 2013; Devolution Press Statement, 2015). These controversies eroded the confidence of the people in the Commission's capacity to fight corruption and stay independent from the external influences.

Both EFCC and EACC have been accused of playing to the gallery. Despite its elaborate framework and vibrancy, EFCC in Nigeria has been often criticized for being a tool in the hands of any incumbent government to hound opposition while also being selective in handling investigations and prosecutions (Ogbeidi, 2012; IKubaje, 2013; Bolu, 2016; Ibrahim, 2016). Participants in focus group discussions held in Nigeria maintained that that the government uses EFCC to fight corrupt leaders in opposition parties but ignores corrupt leaders in its own government. (FGD, 24/11/15;11/01/16).

Similarly, participants in Kenya asserted that the agencies mandated to curb corruption in Kenya are not effective because they are sometimes appointed through corrupt means by corrupt leaders (FDG, 21/03/16; 12/04/16). This also concurs with the report by the Devolution Forum Press Statement, (2015) which noted that the anti-corruption agencies in Kenya have not been active in curbing and punishing corrupt individuals and even when they have purported to prosecute, these prosecutions have been half-hearted and selective.

The poor performance of the anti-corruption institutions made citizens to be skeptical of the efforts and policies initiated to address corruption. To affirm this, the former Director of the defunct KACC, Aaron Ringera, cited in Amukowa (2013) noted in his introductory message that the public's perception of the efforts made by KACC was a challenge. He maintained that the:

“members of the public are not satisfied with the work of the Commission and believed it targets the public ‘small fishes’ and leaves out ‘bigger fishes’ (Amukowa, 2013).

Though most of those who criticize the commission of being selective are sometimes guilty of corrupt practices, it is still imperative to address the negative perception regarding the institution.

It is thus clear that putting up an appropriate legislative framework does not mean that the war against corruption is won. The elaborate institutional structure of Nigeria's EACC has led to Nigeria's gradual improvement in the corruption perception index (TI, 2003-2015). However, corruption is still endemic in Nigeria while it is still being perceived as one of the most corrupt countries of the world. This implies that the institutional capacity of the commissions has to be reinforced with strong legal institutions and political commitment to fighting corruption.

7.3 Legal and Judicial Issues

The legal system is the bedrock of democracy and vital to government's ability to effectively implement a national anti-corruption program. This is because the rule of law requires that public management should be governed by legally defined procedures instead of political connections or personal favoritism (Commonwealth Expert Group, 2000: Kivutha et al, 2005). An independent judiciary with undisputed

integrity is therefore very vital in fighting corruption as it plays a key role in prosecuting offenders (EFCC Zero Tolerance Report, 2014).

The Nigerian and Kenyan experience in fighting corruption shows that the legal system in the countries present profound hurdles in executing anti-corruption laws (Anassi, 2004; Kututwa, 2005; Waziri, 2011; Bolu, 2016). Both EFCC and EACC have cited the structural weaknesses in the administration of Justice in their countries as one of the reasons for their inability to effectively carry out their mandate (EFCC O.I, 9/12/15; EACC, O. I, 05/04/16).

A Key informant interviewee in Nigeria remarked that:

“the prosecution of corruption cases in Nigeria is very slow and moves as a snail speed. Cases of some governors who were indicted for corruption since 2001 are still being reported with several court orders and injunctions” (Journalist, KII, 08/03/16).

Similarly, the Counsel to EFCC noted that the prosecution and trails of high profile cases in Nigeria is usually slow and can be likened to a barber's chair that it is in constant motion without movement because it is usually frustrated by the judiciary. The Counsel pointed out that in most cases, the laws are usually open for manipulation and exploitation by those who can afford it (EFCC Anniversary Report, 2013).

In most cases, the Defense Counsel often collude with accused persons to frustrate trials by exploiting the loopholes in the judicial system even when the cases are weighty against the client. The trails are usually delayed in the form of court injunctions sought from the defense council. When the lawyers observe the evidence is weighty against their client and they may be likely be convicted, they try to see that the matter will not see the light of the day by using loopholes in the judicial process to seek for several court injunctions. By the time the trial goes on, the

witness may be weary and not be available again. That has led to loss of vital evidences from the witnesses because the prosecution or witnesses sometimes lose enthusiasm and develop apathy. In some cases, they have they have either been compromised or become exhausted as a result of the time taken in the investigations (Ibrahim, 2015; EFCC Official, O. I, 09/12/15; Senior Advocate of Nigeria, KII, 16/05/16).

Also, EACC in Kenya noted that cases of constitutional references filed by corruption suspects is a hinderance to its work. In such instance, corruption suspects often use constitutional references to delay court processes and subvert the course of justice (EACC Official, O. I, 05/04/16). Similarly, the annual report of the KACC in 2007/2008 listed over 37 of cases of application for constitutional references. The 2008/2009 report of the commission noted 9 of such cases (KACC Annual Report 2007/08 & 2008-2009). The EACC report of 2011-2014 also confirmed that slow adjudication of cases with frequent adjournments, constitutional reference and numerous judicial review applications hinders the Commission's ability to execute its mandate.

The EACC and EFCC are also challenged by weak and outdated legislative laws and judicial laws (EFCC, O.I, 09/12/2015; EACC, O.I, 05/04/16). In Kenya, the legislative framework to enforce Chapter Six of the Constitution is weak. Also, the anti-corruption laws of the EACC, ACECA, Leadership and Integrity Act and Public Officer Ethics Act sometimes create duplicity while in other cases they are inconsistent with each other (EACC Annual Report, 2012).

Nigeria's former EFCC Chairman Farida Waziri also pointed out that EFCC's anti-corruption effort has been challenged by conflicting and weak anti-corruption laws”

(Waziri, 2011). The Commissions are therefore at the receiving end of adverse judicial interpretations of constitutional references. For instance, while section 40 of the EFCC Act provides that an appeal should not stay away proceedings in the high court, the provision of the constitution gives the right of appeal to an accused person. In this case, the EFCC Act cannot override the Nigerian constitution.

Also, the Constitution of Nigeria in section 308 provides immunity for some elected officials from prosecution. This usually poses a challenge to fighting corruption as it protects the high-profile individuals. It is also often too late by the time they are out of public office as evidence may be lost and witnesses may not be available (Section 308, Constitution of the Federal Republic of Nigeria).

The Evidence Act enacted in 1945 is out of touch with modern day commercial realities. For instance, electronically generated evidence is not currently admissible, thereby making the fight against corruption more difficult. Likewise, the penal and criminal codes in Nigeria are over 50 years old and were probably drafted for lesser crimes such as simple theft and not in billions of naira. (Constitution of the Federal Republic of Nigeria, Waziri, 2011). The sanctions contained in the legislations are insufficient when compared to the level of crime committed. Consequently, high profile individuals, who are convicted of corruption, seem to get little or no time in prison while low income individuals attract heavier sentences. To this effect, a Journalist in Nigeria remarked that:

“is common to see a public official who has looted millions get a two year or less sentence while a thief gets a long sentence for stealing mobile phones and two hundred and fifty thousand naira” (Journalist 2, O.I, 10/03/16)

The above remarks can be illustrated with a case in Nigeria where a former accountant with the Federal Civil Service Commission was sentenced to six months

without fine for stealing (109 million), abuse of office and forgery after four years of prosecution which started in 2012 (The Guardian, May 31, 2016). In this case, six months is just like a tap on the head compared to victim's crimes. There was also a case of a man who was alleged to have been involved in a thirty million Naira scam and confessed that he took only twenty million naira. He was later charged seven hundred and fifty thousand naira by the judge (EFCC Zero Tolerance Report, 2014). The sentencing caused a lot of uproar and outrage and led to the suspension of the later judge. However, very little was changed because it seemed the judges may have also been guided by the provisions of the nation's laws, most of which are no longer in tune with current realities. If corrupt officials know that even when convicted, they have the option of paying meager sums as fines, then it serves as little or no deterrent to others.

It is also imperative to pass an assets forfeiture law. Unfortunately, Nigeria and Kenya do not have this law despite many attempts to introduce it. (Farida, 2011; EACC Official, O. I. 05/04/16). For instance, an EACC report noted that the Commission is unable to freeze the assets it suspects are obtained through corruption. This diminishes the urgency in recovery of assets and causes delay due to prolonged trials. (EACC Report, 2014). Since, corruption thrives because the criminal is interested in the acquisition of wealth, then the anti-corruption strategy must include the legal structure for depriving the criminal the proceeds gotten from the illicit wealth (Githongo, 2003). Most politically exposed persons have the means to evade or delay trials. However, where their assets are sequenced within the bounds of the law, it is in their interest to either not loot public funds or to avoid delaying trials. An EFCC Report also noted that before the recent amendment to the money Laundering Act in 2011, there was no penalty for non-declaration of funds at

the nation's exit points. Most of the cases charged to court for non-declaration under the Money Laundering Act 2004 and 2006 were dismissed and the assets recovered returned to the accused persons (Farida, 2011).

Corruption cannot be tackled without transparent delivery of justice. By the demands of their functions, the judiciary is supposed to be the most conscientious of the three arms of government. Nigeria and Kenya have however reported various allegations of corrupt practices and unethical behavior by judges, lawyers and other staff of the judiciary who should be the defenders of the constitution. Cases and reports of corrupt judges and lawyers are a common feature of the judiciary in both countries (Anassi, 2004; Gathii, 2009; Adeyemo, 2015; Bolu, 2016.) The former head, Media and Publicity Unit of the EFCC, Osita Nwaja reported in a statement that the Commission is “disturbed by the increasing involvement of members of the bar in financial scam” (Adeyemo, 2015). Likewise, a Panel of the Common Wealth who interviewed judges, magistrates, lawyers and other stakeholders reported that corrupt practices through bribery and political coercion were common in Kenyan courts (Common Wealth Expert Group Report, 2000). The Kenya Human Rights Network also stated that complaints of District Commissioners, Police Officers colluding with Judges and Magistrates to defeat the cause of justice were rampant.

A Senior Advocate of Nigeria opined that while critics are quick to blame EFCC for securing fewer convictions in high profile cases when compared with hundreds of convictions it secured in Advance Fee Fraud cases, they forget to put into perspective that the laws are open to manipulation and it is those that have the resources that can manipulate the law to their advantage (KII, SAN, 16/05/16). In the same vein, a Professor in Nigeria noted that:

“because of the prevalence of corruption in the Nigerian judiciary, some lawyers and judges who should ideally serve to protect the conscience of the society haggle to represent corrupt politicians who have looted money” (University Professor, KII 12/01/16).

Another major case of adverse action against anti-corruption institutions by the judiciary in Nigeria was when a High Court acquitted and discharged James Ibori of who was accused by the EFCC for corruption while he served as governor of Delta state. This was despite the evidence of massive corruption against him in Nigeria and previous theft cases in UK that had been filed against him. A further attempt to re-arrest and prosecute James Ibori in Nigeria was abortive. Two years later he was however successfully prosecuted and sentenced to 13 years by a foreign judicial service after pleading guilty in a Southwark Crown Court to 10 (ten) counts of fraud, money laundering and corruption (Lawson, 2009; Bamgbose, 2010).

The numerous legal challenges explained above suggest that that the fight against corruption will not be effective in societies led by strong individuals rather than strong institutions as seen in the case of Nigeria and Kenya.

7.4 Lack of Independence of the Institutions

One of the major challenges combatting corruption in Nigeria and Kenya is the lack of independence of the anti-corruption institutions from interference of the ruling class and influential political forces. According to Johnston (1999), the degree of independence of an anti-corruption institution lies in its ability to freely investigate corruption whenever it suspects without the punishment being modified because of political interest or powerful individuals or groups.

The fact that the appointment of the head of the EFCC, EACC and the Attorney Generals in Nigeria and Kenya are being made by the head of state before vetting

makes the anti-corruption officers liable to protect the interest of the political elites. This is particular in a case where personalities close to the government use their influence to affect the commission's work in fighting corruption.

A key informant opined that:

“Because of the many years of corruption and manipulation of the judiciary by the executive and prominent personalities in Kenya, its ability to dispense justice and fight corruption was compromised. The judiciary in turn also negatively made the anti-corruption institutions task more difficult” (Jurist, KII, 29/02/16).

A report by KACC also revealed an instance when the institution was hindered from investigating one of the companies that received the Anglo leasing contract. The court ruled against KACC investigating a contract that had been approved by the Attorney General before its establishment (KACC Report, 2010). Some officials of the EACC have also cited political interference particularly from some members of Parliament as one of the hindrance to their effectiveness in different media forums. But because of the sensitivity of the issue, the anti-corruption officials were not bold to mention any specific political figure. The abrupt removal of P. L.O Lumumba by Parliament in 2011 after he re-opened investigations on the Anglo leasing and Goldenberg Scandal also demonstrates the anti-corruption commissions' vulnerability to political interference.

In a particular instance in Nigeria, the former Attorney General of Nigeria, Michael Aondoakaa announced in 2007 that the independent prosecutorial powers granted to the EFCC and ICPC in their establishment acts were unconstitutional, and that all future prosecutions would need to be vetted by his office. This set off the EFCC's and ICPC's own struggle for survival and independence under the Attorney General's new administration (Lawson 2009; Enweremadu, 2010; EFCC Official,

O.I, 09/12/15). Though it was possible that Aondoakaa's wanted to bring the anti-corruption agencies under the Attorney General's Office, it seemed to be politically motivated. Aondoakaa appeared to be creating obstacles to the ongoing EFCC effort to prosecute some of the governors charged for corruption, thereby raising concerns about the efficacy of the EFCC particularly regarding its prosecutorial powers and relative autonomy from the judiciary.

Despite the Attorney General's effort to control the Commission, EFCC did not back down. In mid-December 2007, it arrested former Ekiti State governor Ayo Fayose, and former Delta State governor James Ibori, seen as a powerful and politically connected governor to the President Musa Yar'Adua. Ibori's arrest seemed to demonstrate EFCC's initial autonomy from political interests, its commitment to its institutional mandate of fighting corruption, and its capacity to arrest and prosecute the high-profile persons who are usually seen as untouchables. However, a week after these arrests, the Attorney General announced that the government intended to merge the EFCC, ICPC and the Code of Conduct Bureau (CCB) because of the overlapping functions of the agencies (Lawson, 2009; EFCC Official, O.I, 09/12/15/; Anti-Corruption Expert, 03/02/16). Though his announcement seemed justified because the EFCC and ICPC perform largely the same function, the timing was politically assumed. It further increased the suspicion that the Attorney General wanted to assert his authority over the agencies and get rid of the Former vibrant EFCC's Chairman.

A week after the Attorney General's announcement, Nigeria's Inspector General of Police Chief Mike Okiro announced that the head of EFCC, Nuhu Ribadu was directed to attend a compulsory one year policy and strategic course (Lawson, 2009;

EFCC Official, O.I, 09/12/15; Anti-Corruption Expert 03/02/16). Many concluded that President Yar'adua's regime will signal the demise of EFCC. Unlike KACC in Kenya, EFCC eventually survived but the removal of Nuhu Ribadu, an effective leader who made major incremental reforms in the commission dealt a major blow to the fight against corruption in Nigeria. The Attorney General's action was perceived as an attempt to weaken the independence of the EFCC and stall the investigation and prosecution of former governors.

To this end, it can be concluded that political leaders in neo-patrimonial societies as seen in the case of Nigeria and Kenya will sometimes try to destroy or weaken an institution of their own making if it threatens their interest.

7.5 Lack of Political Will and Politicization of Anti-Corruption Initiatives

The efforts to combat corruption requires more than an anti-corruption agency or good justice framework. It also needs political will and commitment by the government to ensure that all those convicted of corruption are prosecuted regardless of their status or position in the society (Kututwa, 2005; Kwaka 2011; Enweremadu, 2012). However, the anti-corruption institutions in Nigeria and Kenya are challenged by low political will to unmask and punish culprits who protect or belong to the ruling clique. Anti-corruption campaigns are also politicized by both the ruling class and the opposition.

Political will broadly involves leaders at all levels of government such as the executive, judiciary and legislature. It also involves the private sector, civil society, professional groups, trade unions and religious institutions (Kutuwa, 2005). It can be argued that despite their weaknesses, the anti-corruption laws in Nigeria and Kenya can make a significant impact in reducing corruption. But enforcing the laws is

dependent on the political will of the leaders who are also responsible for creating an enabling environment that will prevent corruption.

One of the reasons the EFCC made progress in the early years of its inception was because it had the support of the President and the law makers in Nigeria. The former President, Olusegun Obasanjo was emphatic in his speech upon assuming office that “there will be no sacred cows in the fight against corruption”. This was backed with preliminary measures that included sacking of some prominent officials accused of corruption, establishments of ad-hoc commissions of inquiry to probe allegations of corruption, regular public statements denouncing corruption and calling for an ethical reorientation in Nigeria (Obasanjo, Inaugural speech, May, 1999). The National assembly also empowered the Commission with a wider mandate and elaborate framework than previous anti-corruption institutions. A key informant maintained that:

“apart from the desire to redeem Nigeria’s tainted image, EFCC was supported by the Nigerian political class because it was not considered as a threat. Rather, the commission was mistakenly seen as a weapon that would be used against fraudsters in the banking industry or individuals specializing in Advance Fee Fraud, commonly known as 419 in Nigeria (Anti-Corruption Expert, KII, 03/02/16).

Against the expectations of the ruling class, former dynamic head of the EFCC, Nuhu Ribadu also included senior political office holders in its battle against corruption. EFCC’s focus on the politicians later caused discomfort especially amongst those whose political fortunes depended on accumulation of state resources (Lawson, 2009; Obuoh et al, 2010).

Since most of the political class in Nigeria obtained their positions and power through corruption, the support for the EFCC by the ruling class later dwindled and even degenerated to attempts to hinder its progress. For instance, President

Olusegun Obasanjo of Nigeria set up a committee in 2005 to look into persistent allegations of massive corruption, particularly in the awarding of contracts, in one of Nigeria's richest public institutions, the Nigerian Ports Authority (NPA). The Committee indicted the managers of the NPA and its board for various corrupt practices that included the refusal to observe existing financial regulations, inflation of contracts, payments for fictitious contracts, purchase of items that had no relevance, and mismanagement of funds (notably pension funds), which cost the NPA billions of naira (Azubuike, 2008; Bolu, 2016).

Despite its strong anti-corruption stance, the government did not take any action against the officials and rather rejected the report for being inconclusive. In this case, the reluctance of Obasanjo to take any decision on the report was possibly because the Chairman of the board of the Ports Authority was also the vice-president of the ruling party and Obasanjo's close ally. As discussed earlier, the late President Yar'adua was also believed to have used the Attorney General to frustrate the effort of the EFCC and remove its dynamic leader who took bold steps in charging some Governors who were close to him. The regime of Goodluck Jonathan which lasted from 2010-2015 was also generally characterized by a low political will to fight corruption. The government's indifference to the increasing reports of corruption became a major reason for its losing the General elections in 2015 (Ibrahim, 2015; FDG's, 11/01/16; 18/05/16; KII, Senior Advocate of Nigeria, 16/05/16)

On the other hand, the anti-corruption institutions in Kenya had been particularly weak from onset, basically because the political leadership especially in the 80's and 90's had showed little or no commitment to fighting corruption (Gaithi, 2009; Kwaka et al, 2011). Though president Kibaki made significant efforts to fight

corruption by establishing the Ethics and Governance Ministry and the establishment of KACC in 2003, some members of Parliament and politicians have frustrated the efforts of anti-corruption crusaders like P.L.O. Lumumba and John Githongo.

An overwhelming majority of the respondents in Kenya maintained that the anti-corruption efforts in Kenya lacked political will and commitment because it was a common practice for corrupt politicians to find their way back to corridors of power if they were loyal to the president (FDG, 10/03/16; 21/03/16; 29/03/16). Their position agrees with a report by Transparency International (2012) which pointed out that while the level of public awareness in the fight against corruption in Kenya has increased, insufficient political will remained the greatest hindrance. The continual reluctance of the law makers in Kenya to empower EACC with prosecutorial power also portrays the lack of political will of the government in fighting corruption.

With greater independence of the other arms of government and freedom for civil society in the Jubilee administration, those indicted for corruption are forced to step aside but no major prosecution or conviction is taken against them after the public hearing and interest on the scandal ends. A Key informant remarked that:

“In most cases, the politicians are driven to EACC's integrity center in luxury cars for interrogation accompanied by their supporters” (KII, Public Servant, 14/03/16).

Lawson (2009) elucidates this by asserting that the unwillingness to prosecute senior corrupt officials is because in some cases, the political rulers have corruptly soiled their reputation and cannot afford to prosecute other corrupt officials for fear of unlocking more scandals.

The political classes in Nigeria and Kenya have also frequently politicized the anti-corruption agencies. When the former Vice-President of Nigeria, Atiku Abubakar became a threat for President Obasanjo's presidential ambition and third term bid, he was indicted by an administrative panel instituted by the President for "abuse of office" and "diversion of public funds to companies controlled by friends and business associates" (Emma et al 2012; Bolu, 2016).

Like Obasanjo's anti-corruption campaign which set up the EFCC, Kibaki's anti-corruption commitment which set up the KACC was short-lived. The desire to reward its allies in government and consolidate its quest for political power diminished the government interest in fighting corruption. A retired public servant revealed that apart from Chris Murungaru, all the ministers that were indicted in the Anglo-leasing scandal were reinstated in a mini cabinet reshuffle before the investigations were fully complicated by the KACC (Retired Public Servant, KII, 15/03/16). It was therefore clear that the commitment to fighting corruption was rhetorical. It also confirms the argument of Baryart (2009) who pointed out that:

"where there is more competition among big men within the state, anti-corruption policies can be expected to be used as instruments by the president to purge those perceived as a threat while reinforcing the personal loyalty of others especially because there are very few powerful individuals who are not guilty of corruption in a predominantly neopatrimonialist political system" (Bayart, 2009).

While the government's tendencies for ignoring the corrupt practices of its closest allies had contributed greatly to undermining the effectiveness of the anti-corruption institutions in Nigeria and Kenya, the incumbent's governments are not the only actors who politicize anti-corruption. Some officials of the EFCC and EACC argued that members of the political opposition also politicize the war against graft when it is convenient for them (EFCC O.I, 09/12/15; EACC, O.I, 05/04/16).

The anti-corruption officials maintained that it is common for the people who are indicted for corruption to whip sentiments from the members of the public. In most cases, they use people they have assisted with financial resources, jobs or admission to higher institutions. In some cases, they whip ethnic and religious sentiments to draw their support. The agencies noted that the fight against corruption becomes difficult because the same members of public who complain of corruption are the same people who will protest if their tribal person or benefactor is indicted for corruption (EFCC O.I, 09/12/15; EACC, O.I, 05/04/16). This is what is usually referred to as modern strategy for corruption to fight back when an attempt has been made to fight it. Amukowa (2013) referred to this as:

“Corrupt officials establishing an intricate network of defense in the event that the cover is blown and there are demands for punitive action against them” (Amukowa, 2013).

To this end, the study noted that when politicians in opposition accuse those in power for corrupt practices and selective prosecution, which can sometimes be true, they may not always do this out of determination to fight corruption. They sometimes do so to offer themselves as a credible alternative to those in power, or to discredit those who are accusing them of corruption in order to avoid possible arrest and prosecution.

One of the common ways of self-protection, which has been used over the years in fighting corruption in Kenya, is the tendency for individuals accused of corruption to portray themselves as victims of a tribal witch-hunt (KACC Report, 2007). KACC’s report further noted that the strategy adopted by convicts to ethnicize their corrupt deeds has on many occasions succeeded in blackmailing those with the responsibility of enforcing the law into inaction. In similar circumstances, the political elites in Nigeria have also taken the line of defense on the political front

when allegations of corruption are filed against them. For instance, after the publication of the reports which indicted the former Vice-President Atiku for corruption, he also released various documents, including photocopies of bank cheques, bank statements, and receipts to prove that the former President was equally engaged in corrupt practices. Coupled with disturbing allegations of corruption against the President, the Vice-President was widely portrayed as a victim of ‘political victimization.

In a complex web of political struggle, the anti-corruption institutions have become a political resource. It has become more rewarding for the corrupt to blame the government for witch-hunting its political opponents. The cumulative effect of such behavior on the war against corruption is that politicians have largely succeeded in molding public opinion to see the anti-corruption institutions as ‘mere political tools’. (Martini, 2012; Amukowa, 2013; Ibrahim, 2015). In the end, the EFCC and EACC, have to occupy itself themselves not only with the war against corruption, but also with a battle to preserve their reputation, tarnished by the activities of a corrupt and obstructive political class.

7.6 Challenges in the Recovery of Assets

A common feature of corruption in Africa is the transfer of looted public funds by the senior public office holders with the collusion and connivance of banking industries in developed countries (United Nations, 2002). The Global Integrity Forum, (2009) revealed that the proceeds of corruption constitute the main predicament for money laundering and a major obstacle to development in Africa. It noted that Africa has lost an estimate of \$854 billion in illicit financial outflows from 1970-2008. An amount greater exceeding its development aid (Global Integrity

Forum, 2009). The reason for that was that local financial institutions were susceptible to investigation once their government was overthrown. Western institutions on the other hand proved more reliable because they were free from galloping inflation and depreciation of currencies, enjoyed the protection by their governments and were famous for bank secrecy rules (Enweremadu, 2012).

As economic crises in Africa intensified in the 1990's, attention shifted to how most of the assets stashed away in foreign lands could be returned to help grow national economies. It was reasoned that apart from assisting the economies of the poor countries, effective recovery will send a strong message to public officials that there was no safe haven for their looted loots. The effort was aided by several initiatives taken by the international community, aimed at depriving corrupt officials around the world of the opportunity of using the international financial system to hide their ill-gotten wealth (EFCC Report, 2004; Enweremadu, 2012 Gashinbaki, 2016).

The recovery of assets acquired through corruption or any other illegal means is among the central mandates saddled on the EFCC and EACC. This was to serve as deterrence to those engaged in corruption by ensuring that they do not enjoy the proceeds they have illegally acquired and to also use the recovered stolen funds to boost the economy (EFCC O.I, 09/12/15; EACC, 05/04/16). To this end, the annual reports of the Commissions usually include their recovery of substantial assets worth millions of dollars from bank deposits, buildings, and other landed properties within and outside the countries from other corrupt politicians and business men. However, the commissions are confronted with the daunting challenges in carrying out this mandate. In their search for stolen loot, EFCC and EACC have to deal with limited technical expertise, legal battles, unwillingness of foreign financial institutions and

their governments to cooperate with the agencies, and the financial burden of overcoming the administrative hurdles created by foreign states in receipt of the loot.

The EFCC and EACC officials revealed that though the UN convention against corruption mandates signatories to offer mutual assistance to one another in investigation, asset recovery, prosecutions and judicial proceedings under the relevant domestic regulations, the commission still encounters significant drawbacks in trying to get stolen funds from foreign authorities whose help is required. They noted:

“that some countries have not been too cooperative in retrieval of stolen funds and their peculiar national interests guide their cooperation with an anti-corruption commission. Sometimes, those governments continued to insist on the need to first initiate prosecution and provide credible proofs linking the accused to the assets” (EFCC O.I, 09/12/15; EACC, 05/04/16).

Though the recovery of stolen assets was a herculean task for both Commissions, the EFCC has faced more daunting challenges in recovery of assets than EACC because of the high outflow of funds in Nigeria. According to a United Nations study, most of the looted funds and assets in landed property from Nigeria are in foreign accounts (United Nations, 2007). The Global Financial integrity forum also maintained in (2009) that Nigeria had the highest financial outflow in Africa with an estimated value of \$ 89.5 billion dollars followed by Egypt, Algeria, Morocco and South Africa respectively, Respondents in Nigeria also noted during oral interviews and focus group discussions that Nigerian politicians and big men rarely make investments in the country but prefer to transfer their money to foreign countries and banks abroad.

Though there was a similar trend in Kenya, some Key informants revealed that some past and present government officials have big investments in Kenya that are believed to have been gotten to corrupt means (KII, FGD, 2015, 2016). The transfer of loot to foreign countries was observed to be notably higher in Nigeria because of the high incidence of advance fee fraud and the oil boom which monetized the Nigerian economy. However, the CEO of EACC asserted at the 16th global program on Anti-Corruption, Financial Crimes and Asset Recovery, that many stolen assets from Kenya are still hidden in island counties (EACC, 2016).

One of the popular and publicized setbacks EFCC encountered in the recovery of assets was its battle in the recovery of the Abacha loot. This was brought into fore after investigations revealed massive looting of public funds by General Sani Abacha's regime which ended after his unexpected demise in June 1998. The recovery of Nigeria's loot stashed away in foreign banks was a major premise of EFCC's anti-corruption campaign when it was set up by the Obasanjo's regime (Anti-Corruption Expert, KII, 03/02/16).

Abacha and his cabinet were alleged to have looted at least \$2 billion US dollars between 1994 and 1997. Most of the monies were physically stashed into vans from the Central Bank of Nigeria (Gashinbaki, 2016; EFCC O.I, 09/12/15). Investigations into what became popularly known as the 'Abacha's loot' began almost immediately after his death. According to figures published by the Ministry of Finance, out of a total of \$6 billion allegedly stolen by Abacha, \$3 billion had been identified and almost \$2 billion already repatriated to the country by May 2005. The Abubakar administration was responsible for the restitution of \$825 million, while the Obasanjo administration accounted for the remaining \$1.175 billion (Ibrahim, 2016).

After the initial progress in the recovery of looted assets, EFCC began to encounter some challenges caused by lack of enthusiasm of some countries to respond to the commission's request. It was further compounded by the capacity of the accused to exploit the existing loopholes in the legal system to their advantage. For instance, the Nigerian government entered into agreement with the late Abacha's family to 1.1 billion dollars in exchange for the discontinuation of all legal processes filed against the family. However, with the claim that the accord never existed, Abacha's eldest son later unilaterally repudiated the agreement when he was released from detention. He continued to engage the Nigerian government with legal battle over the loot (Farida, 2011; EFCC, O.I, 09/12/15; Gashinbaki, 2016).

However, in another development, the Attorney General of Nigeria stated in 2016 that part of the Abacha's loot amounting to \$458 million was still held by the United States because a Nigerian lawyer had appealed and insisted that he should be paid part of the money for representing the government in the suit that led to the forfeiture of the suit. Another \$100 million was also being held because other Abacha's associates are contesting for the assets on the claim that the matter is a private family trust. The Attorney General explained that the only issue delaying repatriation of the forfeited assets, which were frozen in multiple jurisdictions to Nigeria, was the resolution of the appeal (Ibrahim, 2015). The Abacha's case is a typical example of the difficult process of asset recovery faced by the EFCC in Nigeria.

In a report to the President of Kenya on Asset Recovery in 2016, the EACC Chairman maintained that it is still is faced with the challenge of repatriating stolen assets stashed in other jurisdictions, because the complex legal procedures on asset

recovery prevailing in those countries make them a 'safe haven' to accumulate and enjoy their ill-gotten wealth (EACC, 2016).

The study noted that the few cases of money laundering and stolen assets stored in foreign countries are still not publicized in Kenya. Consequently, there is inadequate data on the amount of stolen funds abroad and the efforts made by the Commission to EACC to recover it. This was confirmed by the former CEO of EACC, Halakhe Waqo who noted in the 16th Global Program on Anti-corruption that the:

“culprits are succeeding in destroying the little information that that relevant bodies have, making it more difficult for them to recover any stolen assets and disburse them to their rightful owners” (EACC, 16th Global Anti-Corruption Program, 2016).

The Director of Criminal investigations also remarked that “the culprits have been hiding the resources locally while Interpol and EACC among other bodies look for them abroad”, a move he said could further hamper the process of recovering stolen assets. He noted that the public are criticizing the Commission but do not give the vital information that can help the commission in its work (EACC, 16th Global Anti-Corruption Program, 2016).

EACC's low recovery rates of stolen assets was also attributed to other domestic issues that include lengthy court processes, inadequate policy and legal framework, unethical culture among Kenyans and human resource constraints (Muraya, 2014; EACC Official, O. I, 05/04/16). A case of the legal tussle that EACC is often confronted with was manifest when the Anglo-leasing and Apex Finance International Limited went to a court in Nakuru to stop EACCs request to investigate their accounts and assets. Anglo Leasing and assets claimed that such investigations would violate their constitutional right to privacy, lead to freezing of their accounts and seizing of their documents. The two companies further claimed

that EACC's mandate to investigate corruption offences ended with the promulgation of the new constitution thus making further investigations after four years illegal. They asserted that the government EACC cannot usurp the power vested on the government since it had not voiced displeasure with their contracts and was yet to terminate some of them (EACC Report, 2011).

Some EACC officials also revealed that in most instances, some suspects concealed the assets through other persons, and companies making it difficult and complex to unmask the genuine owners (EACC, O.I, 05/04/16).

The process of recovery of assets by EACC and EFCC is also characterized by the absence of transparency and accountability. This has hindered the exercise from having domestic support or sympathy. Respondents in both Nigeria and Kenya noted with concern that apart from the media reports about stolen assets, the Commissions need to make public statements and publications to show specific proceeds recovered from corrupt officials and how it was spent. A respondent in Nigeria remarked that:

“The government is always reporting that EFCC has recovered millions of naira’s and dollars from politicians in the previous government but we have not seen what the money is used for. Our economy is in shambles and they are always talking about anti-corruption” (Youth, O.I, 03/05/16).

The absence of transparency in recovery of assets is further complicated by the incessant reports of government officials committing similar acts of corruption and creating a circle where the loot will be returned only to be re-looted by some new set of politicians. For instance, the Transparency International Kenya, reported in 2011 that Kenyan anti-corruption commission together with the Central Bank of Kenya had decided to engage in an out of court settlement to recover the proceeds of the Goldenberg scandal.

Mr. Kamlesh Pattni, a major businessman involved in the Goldenberg scandal agreed to relinquish to the Kenyan government the hotel he built with the money stolen in the Goldenberg scandal as payment for his role in the corruption scandal. For admitting to corruption and returning the stolen funds, he was granted amnesty from future prosecution relating to the case. It was then suspiciously sold by the former minister of finance Mr. Amos Kimunya for US \$45 million dollars (Transparency International Kenya Report, 2011). A civil rights activist however pointed out that the hotel was grossly undervalued. The sale was reported to have taken place at the sole discretion of the minister. He was publicly criticized for selling the hotel without a competitive deal and with a faulty privatization procedure in regulating the sale of government assets. The public condemnations of Mr. Kimunya's actions led to his resignation in July, 2008. Nonetheless, the Commission of inquiry set to investigate the Minister cleared him of any wrong doing and stated that his call for resignation was a witch-hunt. The report was also not made public but he was controversially reinstated to his post (TI Kenya, 2011; Kwaka et al 2011; NGO Staff, KII, 11/03/16).

It is therefore apparent that unless the Commissions and corresponding governments re-evaluate their efforts in recovery of loots, the ordinary citizens who bear the brunt of corruption might not have any hope in having a relief from stolen funds that are recovered.

7.7 Conclusion

The Chapter discussed the challenges that hinder the EFCC and EACC from effectively carrying out their mandate. It established that the commissions need to improve their technical capacity to handle the complex realities of fighting

corruption in recent times. It also established that putting up an institutional framework for anti-corruption does not imply that the fight against corruption will be won. This has to be reinforced by a robust judicial system, good leadership and a strong political will to fight corruption.

CHAPTER EIGHT

SUMMARY, CONCLUSION AND RECOMMENDATIONS

8.0 Introduction

This chapter offers a summary of the key findings of the study, the conclusions derived from the research as well as the recommendations suggested by the researcher. The summary given covers findings in the preceding chapter, and the conclusions are derived based on premises drawn from the study.

7.8 Summary and Conclusion

The study sought to examine grand corruption and the anti-corruption initiatives in Nigeria and Kenya with specific reference to the Financial and Economic Crimes Commission (EFCC) and the Ethics and Anti-Corruption Commission (EACC). In this regard, the background of the study in chapter one demonstrated that efforts in combating corruption are increasingly recognized in academic discourses and international platforms. This is because of the monumental negative impacts that corruption has on the development prospects of a country. It noted that Nigeria and Kenya have persistently been rated for long amongst the most highly corrupt countries in the world.

The Chapter also noted that corruption seems to be persistent in Nigeria and Kenya despite the arrays of anti-corruption initiatives that have been put in place to curb it. It clearly outlined the objectives amongst which is to investigate the manifestations of grand corruption in Nigeria and Kenya, to interrogate the basis for the emergence

of anti-corruptions in the countries, to examine if the measures and strategies put in place by EFCC and EACC are adequate to curb corruption and identify their challenges. The literature that was considered relevant to the research was also reviewed. The chapter stated that due to the sensitive nature of corruption related issues in Nigeria and Kenya, the government officials and some officials in the Anti-graft agencies were reluctant to give some information. However, the researcher was able to interview a few government officials and retirees. The researcher was also permitted to interview a limited number of the head of units and employees of EFCC and EACC. Information was also collated from Key informants who were knowledgeable about anti-corruption issues and few members of the public. Their anonymity and confidentiality considered and ensured in the study.

Chapter two and three addressed the first objective of the study which set out to examine the manifestations of grand corruption in Nigeria and Kenya. To put this into perspective, the study examined the general dynamics of corruption in Nigeria and major cases of grand corruption in the colonial era, the military and democratic governments. Similarly, it analyzed the general nature of corruption in Kenya and cases of corruption in Kenya's colonial era, during former regimes of Jomo Kenyatta, Moi, Kibaki, and the present jubilee government citing the major cases of grand corruption.

The thesis pointed out that the exploitative nature of the British colonial system in Nigeria and Kenya had dismantled structures that promote accountability and transparency. The system rather nurtured the reproduction of political elites who became infamous for plundering of state resources. Since the British colonial system discouraged indigenous entrepreneurship, the political elites used state resources as

means of personal and primitive accumulation. It noted that the most pervasive form of corruption in Nigeria and Kenya was manifested in public sectors through bribery, nepotism, abuse of public office and mismanagement of state resources. This confirmed the first premise of the thesis which stated that corruption in Nigeria and Kenya is manifested in similar forms. This view is further supported with the regular reporting of corruption scandals in public sectors of the two countries.

The Chapters also established that though corruption in Nigeria and Kenya are manifested in a similar manner, Nigeria's opportunity for corruption became broader with the discovery of oil and as the country becoming a major exporter of the oil. Since oil revenue in Nigeria accounts for most its of foreign exchange earnings, the government played the major role as producer and controller of the economy with the resultant effect of waste and management of state resources. It maintained that corruption in Kenya often found expression in ethnic divisions and group identity. The political elites exploited such opportunities to plunder state recourses because the political system was based on ethnic and regional patronage.

Chapters four and five explored the issues raised in the second objective which is to examine the emergence of anti-corruption institutions in Nigeria and Kenya. To achieve this, the Chapters interrogated the anti-corruption initiatives that were put in place by previous governments before the establishment of EFCC and EACC. It also examined the socio-political events that led to the establishment of the institutions.

It established that Nigeria had about 29 years of military rule which captured power from the first civilian government in 1966. The military used an anti-corruption platform to justify every coup in Nigeria. To that effect, the military have

established arrays of anti-corruption decrees such as the Corrupt Practices Decree, Public Officers Investigation of Assets Decree, War Against Indiscipline, and Investigation of assets Decree. The study pointed out that despite all these measures, corruption blossomed during the military regimes and Nigeria was ranked the most nation globally twice. As a result of the endemic level of corruption and lack of adherence to the rule of law, Nigeria suffered from years of isolation and diplomatic sanctions from the international community.

Findings in the study indicated that by the time Olusegun Obasanjo assumed power under a new civilian regime in 1999, he was under intense pressure at the domestic level to redeem Nigeria's appalling international image, and at the international level to make structural changes that would attract donors and foreign investors. Nigeria was also promised a debt cancellation by the Paris club. The establishment of ICPC in 2000 and EFCC in 2003 therefore became a policy priority of the government. This corroborates with the second premise of the study which stated that international and donor pressure was responsible for the establishment of EFCC.

Discussions in chapter five noted that the Prevention of Corruption Act which was established in the colonial era remained unchanged until 1991 when it was amended by former President Moi. This indicates that there wasn't any effort to control the endemic corruption in Kenya before then. Because of the persistent pressure from the financial institutions and the threat to cut off aid, the government established the Anti-Corruption Squad. The squad, headed by a Chief of Police did not make any progress in curbing corruption before it was disbanded due to allegations of corruption. The study noted that the Kenya Anti-Corruption Authority, Anti-Corruption Police Unit, and the Kenya Anti-Corruption Commission were also

established to regain the confidence of the international community particularly the IMF and World Bank who were not willing to continue funding aid in Kenya until the government shows more concerted effort in combating corruption. The second premise is also positively confirmed in the light of the political developments of the anti-corruption institutions in Kenya.

Chapter six investigated the measures that have been put in place by EFCC and EACC in fighting corruption. In doing this, the chapter outlined the structures of the institutions and the mandate they have been saddled with before investigating their achievements. The research pointed out that the EACC investigates corruption cases and recommends to the DPP, traces stolen assets and institutes court action to recover them, educates the public and create public awareness on corruption, provide advisory services to other institutions, develop and promote codes of conduct and best practices in integrity. EFCC also performs similar functions such as investigations, tracing and freezing of assets and creating public awareness on corruption.

The study established that EFCC and EACC's education and public awareness on corruption was the most successful of the measures they had adopted to combat corruption. There is evidently more awareness on corruption issues in both Nigeria and Kenya. Prior to the establishment of the institutions, corruption often thrived in secrecy.

The Chapter pointed out that the measures adopted by EACC particularly in investigating cases and seizing of assets have not been very effective because it lacks prosecutorial powers. EFCC has made more success in terms of investigations,

prosecutions and seizing of assets because it has power to prosecute. This has led to Nigeria's improved corruption Perception Index after the establishment of EFCC. However, its prosecutions have often targeted offenders with no political connections. Prosecution of high profile public officers is very minimal and new corruption scandals are still being reported.

The chapter concluded that despite some of their achievements, the measures adopted by EFCC and EACC have not effectively reduced corruption in the respective countries. This confirms the third premise that the measures put in place by the commissions are not adequate in curbing corruption.

In Chapter seven the study examined the challenges that limit the effectiveness of the anti-corruption institutions and highlighted their experiences in fighting corruption. It noted that the legal system is central to the effective implementation of a national anti-corruption institution. However, the legal system in Nigeria and Kenya is liable to manipulation by the executive and highly placed political leaders. It also has weak anti-corruption laws that have been open to exploitation and manipulation by those who can afford it. In most instances, it is the high profile public officers that pay the best lawyers to represent them. Since some of the laws are outdated and sometimes conflict with the provisions of the constitution, the corrupt officials collude with their lawyers to frustrate trails by seeking court injunction that causes delay and loss of vital evidence. Instead of aiding the anti-corruption institutions, the judiciary has rather contributed negatively to the fight against corruption.

The Chapter also examined the institutional framework of EFCC and EACC. It pointed out that EFCC has a large staff strength but needs to improve its technical capacity to investigate complex corruption cases. EACC on the other hand is challenged by shortage of staff particularly in the professional sectors. Further findings reveal that both Commissions are faced with challenges of funding, need for sophisticated ICT equipment, and training of staff to meet the modern demands of fighting corruption.

The study asserted that the commissions are challenged with low public support and low credibility opinion which negatively affects their performance. It also maintains that setting up a good institutional framework does not mean the battle against corruption is won. The institutions also have to be independent from political interference, a condition which is lacking in Nigeria and Kenya

It was also pointed out that there is low commitment and political will political in the fight against corruption in the two countries. Though EFCC had the support of the political leaders at the initial stages, it dwindled when the commission started targeting senior political officers. EACC had been particularly weak from onset because the political leadership had shown little or no commitment towards it. It has been cited as one of the reasons parliament has refused to grant prosecutorial powers to EACC even after it was changed from KACC.

The anti-corruption institutions have also been used as political tools by the politicians. While the incumbent governments often use the institutions to suppress opposition and perceived threats to their governments, the opposition leaders who are often not free of corruption allegations also accuse the incumbents of witch-

hunting them. The institutions hence become a theatre for accusations and counter accusations by political leaders.

Chapter seven concluded that the recovery of stolen assets by the institutions have been characterized by difficult legal and administrative procedures. Adequate information and transparency in the recovery process is also lacking.

7.9 Recommendations

Strong institutions are imperative in fighting corruption since they outlive strong leaders and individuals. It is therefore critical to strengthen institutions because the perpetuation of corruption is traceable to weak institutions occasioned by lack of commitment on the part of government. Reducing corruption therefore requires functioning governmental institutions such as the legislature, judiciary, law enforcement, independent media and civil society. Anti-corruption bodies also need to be provided with independent decision-making, investigative, and enforcement capacity so that it can independently initiate investigations, to have unrestricted access to witnesses, documents, or locations, to set its own priorities and be able to prosecute offenders without seeking AGF's clearance.

In consideration of the above, efforts should therefore be made to grant EACC prosecutorial powers in harmony with the Attorney-General's constitutional mandate. Lack of prosecutorial powers of the EACC undermines its authority in fighting corruption and exposes it to political pressures and attempts to marginalize its effectiveness. Efforts should also be made to instill the confidence of the

members of public in the commission's ability to fight corruption. This will create more public support and credibility in the fight against corruption.

The relevant provisions in the constitutions of Nigeria and Kenya should be amended to support the fight against corruption and correct conflicting issues with the current anti-corruption laws. The criminal laws in the legal system must also be amended to punish those who engage in graft. The inability to punish corrupt behavior encourages more corrupt practices. To win the war on corruption, the slogan that there will be "no sacred cows" should not be a mere political rhetoric. It should be put into practice by prosecuting all the known corrupt persons and recover all stolen assets. Punishment and prosecutions of offenders will restore the confidence of the citizens in the anti-corruption institutions.

Political will and commitment to fight corruption is basic to the success of any anti-corruption initiative. It can be argued that despite their weaknesses, the anti-corruption laws in Nigeria and Kenya are adequate to reducing corruption. But the enforcement of those laws depends on the political will of the governing class coupled with the creation of an enabling environment for a corrupt free society. Political will and leadership broadly conceived involves leaders at all levels of government, professional groups, the private sector, trade unions, religious institutions, and other civil society groups. However, the executive, legislative and judicial branches of government are the main focus of political will.

A radical ethical orientation is also necessary for a successful fight against corruption. Nigerians and Kenyans must show strong dislike for corruption and stop seeing it as a normal phenomenon. A mental change requires a new perception and

a change of behaviors or ideas and values in the public realm. The political system must be sanitized to discourage it from being an avenue for materialism and wealth accumulation. In most of the continent, the strength of character and restraint required to manage public office is lacking. And without cultivating and sustaining the right principles and mind-set required of an orderly society, fighting corruption will amount to nothing.

7.10 Contribution to Knowledge

As a consequence of the limited data on corruption across countries or data to explain levels of corruption in terms of broad political difference, the study attempted to fill this gaps on research on corruption through the use of data and views from different respondents on grand corruption in Nigeria and Kenya.

By examining anti-corruption initiatives and institutions from cross national perspectives, the study provided explanations for the pervasive nature of grand corruption and its resistance to efforts made to combat it. The research tried to break new grounds in uncovering factors that are also important in the fight against corruption apart from the establishment of anti-corruption institutions. It explained that that successes of anti-corruption institutions are also impacted by historical and socioeconomic circumstance, independence of the institutions from political forces, support from the judiciary, civil society and general members of the public.

The study therefore serves as a model for further studies which deal with similar topics in different countries. It can provide clues for future research and could aid in

making predictions of likely outcome of anti-corruption institutions in other countries that were not included in this research.

7.11 Suggestions for Further Research

The study analyzed grand corruption and anti-corruption institutions in Nigeria and Kenya from 1960-2015. The study however particularly focused on the leading anti-graft institutions, the EFCC and the EACC. The study recommends further studies on other anti-corruption bodies, such as the Directorate of Public Prosecutions in Kenya and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Code of Conduct Bureau in Nigeria. For instance, further studies can be carried out evaluating their relationship with one another and the combined roles in fighting corruption in their respective countries.

The study also recommends further anti-corruption cross country studies of Nigeria and Kenya involving countries with lower rates of corruption in Africa. E.g. South Africa, Botswana and global nations such as, New Zealand, Denmark, Finland and Singapore.

Further study is also recommended on the socio-economic impact of grand corruption in Nigeria and Kenya.

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ORAL SOURCES

Key Informants in Nigeria

S/NO	RESPONDENTS	PLACE	DATE	GENDER
1	EFCC Official 1	EFCC Headquarters	8/12/2015	Male
2	EFCC Official 2	EFCC Headquarters	8/12/2015	Female
3	EFCC Official 3	EFCC Headquarters	9/12/2015	Female
4	EFCC Official 4	EFCC Headquarters	10/12/2015	Female
5	Elder	Gwagwalada	2/11/2015	Male
6	Community Leader	Gwagwalada	2/11/2015	Male
7	Secondary School Teacher	Wuse	4/11/2015	Male
8	Business Man	Area 1	5/11/2015	Male
9	Retired Civil Servant	Lugbe	10/11/2015	Male
10	Anti-Corruption Expert	Wuse 2	3/2/2016	Male
11	Elder statesman	Gwarinpa	5/2/2016	Male
12	Politician	AYA	12/11/2015	Male
13	NGO Staff	Wuse	3/5/2016	Female
14	Civil Rights Activist	Wuse 5	3/5/2016	Female
15	Senior Advocate of Nigeria	Gwarinpa	16/05/16	Male
16	Journalist	Jabi	6/5/2016	Male
17	Civil Servant	Central District	4/11/2015	Male
18	Journalist 2	Wuse	11/12/2015	Female
19	University Professor	Jos	12/1/2016	Male
20	Civil Servant	Jos	14/01/16	Female

Key Informant Interviews in Nairobi, Kenya

s/No	Respondents	Place	Date	Gender
1	EACC Official 1	Integrity Center	04/04/16	Male
2	EACC Official 2	Integrity Center	05/04/16	Male
3	Former Politician	Kahawa Sukari	19/02/16	Male
4	Senior Lecturer	Kenyatta University	23/03/16	Male
5	Youth Leader	Rurui	03/03/16	Male
6	Journalist	Kijabe Street Male	08/03/16	Male
7	Journalist 2	Nairobi town	10/03/16	Female
8	Jurist	Gigiri	29/02/16	Male
9	Retired Public Servant	Kahawa Sukari	15/03/16	Male
10	NGO Staff	Westlands	11/03/16	Female
11	NGO Staff 2	Kilimani	17/03/16	Male
12	University Administrative Staff	Kenyatta University	15/03/16	Female
13	Civil Rights Activist	Kilimani	17/03/16	Male
14	Private Sector Auditor	Waiyaki Way	21/03/16	Male
15	Elderly Man	Kahawa wendani	22/03/16	Male
16	Public Servant	Ngong Road	14/03/16	Female
17	Banker	Roy Sambo	13/04/16	Female
18	PhD Student	Kenyatta University	13/04/16	Female
19	Lecturer	Catholic University	24/02/16	Female
20	Doctor	Matheri Hospital	22/03/16	Male

Focus Group Discussions

s/No	Participants	Place	Date
1	Some members of the University Community	Gwagwalada, Nigeria	21/11/15
2	Area Residents	Lugbe, Nigeria	24/11/15
3	Selected Youths	Wuse, Nigeria	11/01/16
4	Selected Members of Civil Society	Jos, Nigeria	18/05/16
5	Post Graduate Students	Kenyatta University, Kenya	10/03/16
6	Area Residents	Kasarani, Kenya	21/03/16
7	Selected Members	Ruirui, Kenya	29/03/16
8	Area Residents	Githurai	12/04/16

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2. National Archives of Nigeria (NAN)- Report on Ishan Division of Benin Province 1916
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APPENDIX 1: INTERVIEW SCHEDULE FOR EFCC AND EACC OFFICIALS

Personal Details

Name.....(Optional).....

Level of Education.....

Occupation.....

Rank. /Designation.....

1. For how long have you been working in the Commission?
2. How would you rate corruption among public office holders?
3. Can you elaborate on the mandate of the Commission?
4. Please Kindly explain the mechanisms and strategies for fighting corruption adopted by the Commission
5. How many cases of public sector corruption has the commission successfully prosecuted from 2003-2014 after investigations were concluded?
6. Do you have periodic or regular training on your job?
7. Do you face political interference in the course of carrying investigations and prosecution?
- (1) 8. Do you partner with civil society and members of the public?
8. What are the achievements the commission the commission made so far?
- (2) 11. Do you have international collaboration or receive international aid?
- (3) 12. What are the challenges you face in the Commission?
- (4) 13. How can government enhance the fight against corruption?
- (5) 14. How can the general public help your commission in fighting corruption?

APPENDIX 2: QUESTIONS FOR KEY INFORMANTS

- (1) What is your perception on the level of corruption in Kenya especially in the last ten years?
- (2) Can you identify the causes and forms of corruption of corruption in Kenya?
- (3) What is your opinion of the performance of previous anti- corruptions In Kenya before EACC?
- (4) How would you rate the performance of EACC in fighting corruption in Kenya?
- (5) Do you think the EACC has the capacity to reduce corruption in Kenya?
- (6) Why do you think corruption is persistent in Kenya despite the measures taken to combat it?
- (7) Can you suggest measures that can be adapted to strengthen EACC in fighting corruption?

APPENDIX 3: QUESTIONS FOR FOCUS GROUP DISCUSSIONS

- (1) What is your opinion on the level and forms of corruption in Kenya especially in the last ten years?
- (2) Can you identify the causes of corruption in Kenya?
- (3) How would you rate the performance of EACC in fighting corruption in Kenya?
- (4) Do you think the EACC has the capacity to reduce corruption in Kenya?
- (5) Can you suggest measures that can be adapted to strengthen EACC in fighting corruption?

APPENDIX 4: QUESTIONNAIRE

Dear Respondent,

I am a PhD student of the school of Social Science, Department of History, Archeology and Political Studies Kenyatta University, Nairobi. The title of my research is **A Comparative Analysis of Anti-Corruption Institutions in Nigeria and Kenya (2003 - 2015)**.

My research intends to compare the measures and strategies set by the EFCC in Nigeria and EACC in Kenya to curb corruption, to identify any challenges to the efforts of the anti-corruption agencies and recommend ways of eradicating their capacity to curb corruption in Nigeria and Kenya.

Your sincere and prompt responses will enable me carry out the research effectively and will be highly appreciated.

I also assure you that the information given here will be treated with outmost confidentiality.

Please be informed that you have the right to participate, not to participate or to stop participating in the research.

Thank you very much for your kind cooperation

**Nenpominyi Sarah Adelabu
Researcher**

PART 1. DEMOGRAPHIC INFORMATION (OPTIONAL)

Please tick the box below appropriately

1. Indicate your gender

(i) Male

(ii) Female

2. Age

(i) 18 to 35

(ii) 35 to 45

(iii) 45 to 55

(iv) More than 55 years

3. Highest level of academic qualification

(i) Primary School level

(ii) Secondary School level

(iii) Diploma level

(iv) Degree level

(v) Post graduate

PART 2

Please tick the option which best describes your answer

1. How will you rate the level of corruption in your country?

(i) Very high

(ii) High

(iii) Average

(iv) Low

2. What is the most common form of corruption in Kenya/ Nigeria known by you?

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Request and collection of bribery					
Ethnicity and favoritism in appointments, admissions etc					
Misappropriation of funds by Political Office holders					

3. Has corruption in Kenya/Nigeria reduced or increased in the last ten years?

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Reduced					
Increased					
No change or improvement					

4. The causes of corruption in Kenya/Nigeria can be attributed to the following:

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Poverty					
Greed and selfishness					
Socio-cultural practices					
Poor governance and leadership					

5. Do you think corruption has negative impact in your country's socio-economic development?

- (i) Strongly Agree []
- (ii) Agree []
- (iii) Neutral []
- (iv) Disagree []
- (v) Strongly disagree []

6. In your opinion, which of these is responsible for fighting corruption?

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Government/ Political leaders					
Citizens					
The anti-corruption agency					
Parents and teachers					
Religious and traditional leaders					

7 Kenya/Nigeria has initiated series of anti- corruption bodies and policies. How would you rate their performance?

- (i) Very good []
- (ii) Good []
- (iii) Average []
- (iv) Low []
- (v) Very low []

8. Do you know the year the Present Ethics and Anti-Corruption Commission of Kenya was established?

- (i) Yes []
- (ii) No []

9 If yes, please indicate the year.....

10. Have you reported any case of corruption to the EACC? EFCC?

- (i) Yes []
- (ii) No []

11. If No what are your reasons for not reporting

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
I did not have any					

personal encounter with a corruption case					
Felt no action would be taken if I reported					
Fear of intimidation/reprisal					
Did not occur to me to report					
Place to report was too far and inaccessible					

12 Do you think the EACC/EFCC has the capacity to reduce corruption?

- (i) Strongly Agree []
- (ii) Agree []
- (iii) Neutral []
- (iv) Disagree []
- (v) Strongly disagree []

13 Do you think the present measures taken by the EACC are adequate in curbing corruption?

- (i) Strongly Agree []
- (ii) Agree []
- (iii) Neutral []
- (iv) Disagree []
- (v) Strongly disagree []

14 What do you think is responsible for the prevalence of corruption in your country despite the existence of an anti-corruption agency?

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Interference from politicians during investigation					
Lack of resources					
The anti-corruption institutions are not efficient					
The citizens do not support anti-corruption measures					
Lack of Political will from leaders					

15. What in your own opinion would be the most effective measure in fighting corruption?

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Punish offenders punitively					
Educate Kenyans on the ills of corruption					
Promote ethical values					
Improve living conditions of citizens					

16. Do you think EACC /EFCC is a political tool by the government to silence opposition or enemies?

- (i) Strongly Agree []
(ii) Agree []
(iii) Neutral []
(iv) Disagree []
(v) Strongly disagree []

17. What do you project will be the level of corruption with the present efforts made by EACC? EFCC in fighting corruption

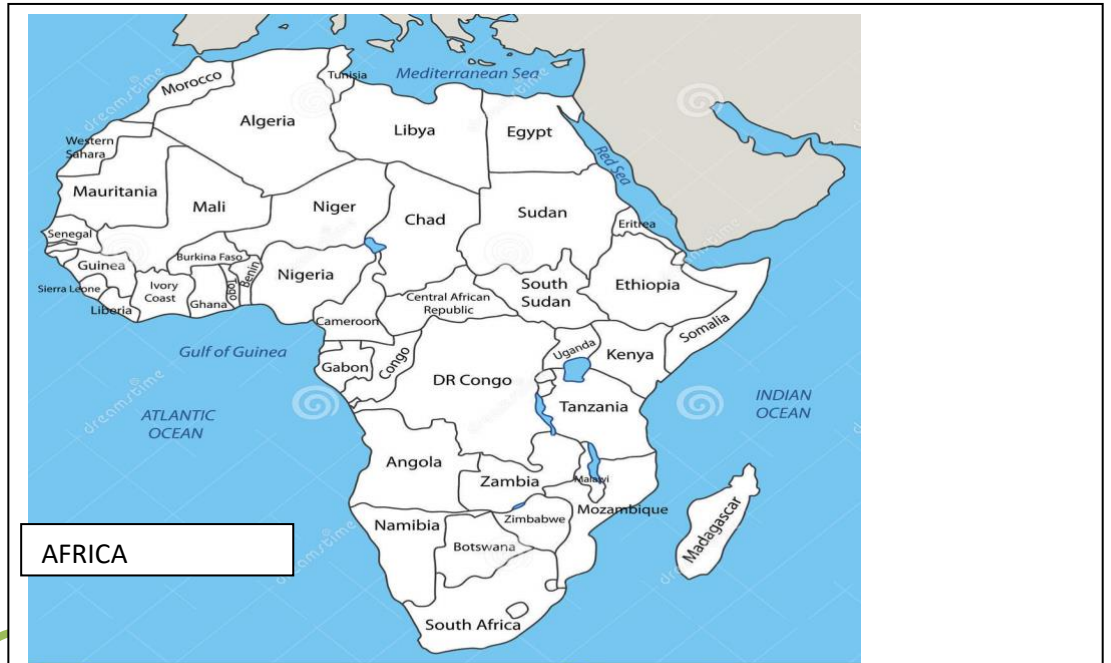
Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Corruption will Increase					
Corruption will remain the same					
Corruption will Decrease					
Don't know					

18. What is your overall opinion of government's effort in fighting corruption?

- (i) Very good []
(ii) Good []
(iii) Average []
(iv) Very poor []

(v) Poor []

A5. Map: Africa, Kenya and Nigeria



Source: world atlas, 2015

APPENDIX 7: RESEARCH PERMIT II



ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. / Jakaya Kikwete Rd. Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya
TEL.: 254 (020) 2717318 / 2720722, MOBILE: 0729 888881/2/3
Fax: 254 (020) 2717473 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:

EACC/.2/9

5th April, 2016

Kenyatta University
Department of History, Archeology and Political Studies
Kenyatta University.
Nairobi.

TO WHOM IT MAY CONCERN

Dear Sir,

RE: AUTHORISATION TO CONDUCT PhD RESEARCH - NENPOMINYI SARAH ADELABU

Reference is made to letter dated 3rd March 2016 requesting for permission to conduct PhD research.

We wish to confirm that, the above named student was allowed to carry out her research at the Commission on 4th April 2016. The process was successful as she was able to achieve her set objectives from the exercise.

Yours faithfully,

P. KYENGO (MRS)
FOR: SECRETARY/CHIEF EXECUTIVE OFFICER

Copy To: - Nenpominyi Sarah Adelabu,
Department of history, archeology and political studies
Kenyatta University.
Nairobi.

APPENDIX 8: RESEARCH PERMIT III

The Chairman,
Economic and Financial Crimes Commission,
Abuja
Nigeria
November 6, 2015.

Sir,

REQUEST TO ADMINISTER QUESTIONNAIRE AND CONDUCT INTERVIEW WITH SOME STAFF OF THE EFCC.

I am a postgraduate (Ph.D.) student of Kenyatta University, Kenya (see attached letter), and equally a staff of the department of Political science University of Jos, Nigeria. I am undertaking a research titled "A comparative Analysis of Anti-corruption Institutions in Nigeria and Kenya."

I write to seek for your kind your approval to administer questionnaire and conduct interview with some of your staff. The right of the respondents' anonymity and confidentiality will be upheld in my research.

I will appreciate your approval, Sir.

With high regards



Nenpo Sarah Adelabu

08036040433

