

Dr. David Uchenna Enweremadu

ANTI-CORRUPTION POLICIES IN NIGERIA

UNDER OBASANJO AND YAR'ADUA:

WHAT TO DO AFTER 2011?

ABSTRACT

- Anti-Corruption was the declared number one policy aim of the Olusegun Obasanjo administration. The success of this policy was, however, for various reasons not too impressive. Obasanjo's successor, President Umaru Yar'Adua came to power promising to reform and continue the anti-corruption policy.
- But while the anti-graft agencies continued to arrest and arraign more individuals, including highly placed officials, for corruption, the general public expressed the view that the fight against corruption became increasingly inefficient under Yar'Adua.
- This paper shows that the positive measures taken by the Yar'Adua government were overshadowed by other observed lapses. The first one has been that the government was patronizing some ex-public officials accused of corruption by the EFCC, especially former governors, who played key roles in his election.
- Secondly, Yar'Adua also presided over the purge and persecution of popular anti-corruption crusaders, especially Nuhu Rubadu, the former chairman of the EFCC. Thirdly, President Yar'Adu was not forceful enough, notably in his speeches, with his anti-corruption program.
- For the incoming administration, the paper recommends to make anti-corruption a strong priority and to reduce political interference in the work of anti-corruption agencies.

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Foreword

“Nigerians agree that corruption in public life, which was pronounced under military rule, has reached alarmingly pandemic proportions, and should now be a matter of very serious and pressing public policy concern.” Unfortunately, the often-quoted statement by the Oputa Panel is still relevant today, many years after the drafting of the report. Corruption is recognized as a grave national problem. Virtually all sectors of policy and society are affected by it. It hampers or interrupts the delivery of basic services to the people, disrupts education and endangers the safety and security of every single citizen.

Corruption is a problem in Nigeria, but not exclusively a Nigerian problem, as the involvement of foreign companies like the IOCs, infrastructure companies like Siemens or Halliburton, and the complicity of numerous foreign banks shows. However, only if decisive steps are taken by institutions of the Nigerian state can corruption be effectively battled.

The Friedrich-Ebert-Stiftung (FES) is a German independent, non-profit organisation committed to the values of social democracy. We operate in Nigeria since 1974 and entertain offices in

Abuja and Lagos. Our main working areas are: Supporting democracy and its institutions, strengthening the Nigerian labour movement and worker’s rights, and supporting the debate on Nigeria in international relations.

Part of our mission is to supply quality analysis on timely subjects to strengthen a critical public assessment of pressing policy issues. We therefore initiated the “FES Discussion Paper” series, which will tackle timely and policy-relevant subjects. I am particularly glad to present this first Discussion Paper on “Anti-corruption efforts under the Obasanjo and Yar’Adua presidencies”, which includes recommendations for the incoming President, after the 2011 elections. The author, David Enweremadu, takes a critical look at anti-corruption policies under both past administrations. His assessment shows progress, but much work left to be done. More dedication and policy coherence is needed to buttress the fight against corruption. Specifically, after analyzing the anti-corruption policies of the past, the author suggests to: (1) Make anti-corruption a top priority for any incoming government; (2) avoid any political interference into the work of anti-

corruption agencies and strengthen their operational capacity; and to (3) address the role of complimentary institutions besides the EFCC and ICPC in the fight against corruption.

I recommend this policy paper to all who struggle for a corruption-free Nigeria,

specifically to policy-makers, media representatives, labour and civil society activists.

Thomas Mättig

Resident Representative, FES Nigeria

Abuja, October 2010

INTRODUCTION

On May 29 2007, President Umaru Yar'adua was sworn into office as Nigeria's third democratically elected President. Although his victory was widely expected, the April 2007 presidential elections were still viewed with anxiety in local and international circles as to the future direction of the reform policies started by President Olusegun Obasanjo. Many concerns were raised concerning the future of Obasanjo's campaign against corruption. These quickly disappeared when Yar'Adua, Obasanjo's anointed candidate, was proclaimed the winner of the presidential elections. Immediately after this, Yar'Adua gave indication that his administration intended not only to continue with the war against corruption, but that major reforms would be introduced in the anti-corruption war to correct perceived lapses.

Exactly three years after he took office, President Umaru Yar'adua passed on, following a protracted illness, paving the way for the emergence of his deputy, Goodluck Jonathan, as President and Commander-in-Chief. Although President Yar'Adua was in office for less than three years, his reign still witnessed significant

changes in Nigeria's fledging campaign against corruption. These changes included shake-up in the leadership of the Economic and Financial Crimes Commission (EFCC), Nigeria's most powerful anti-corruption agency; increased emphasis on respect for the fundamental human rights of accused persons and greater respect for rule of law and due process. This paper reviews these major changes that have taken place in fight against corruption in Nigeria since the departure of the Obasanjo administration in May 2007, with a view to determining what factors triggered them and how significant they have been. First, a brief account of how the war against corruption developed under President Olusegun Obasanjo (1999-2007) will be provided. After that, we will look at some important changes that took place in the campaign against corruption, especially with respect to the management and operations of the two major national anti-corruption agencies, Independent Corrupt Practices and Other Related Offences Commission (ICPC) and EFCC, under the administration of President Umar Yar'adua, with a view to showing how they impacted on the war against corruption. The major aim of this study was to identify the key lessons that could be learnt by stakeholders,

especially the incoming administration expected after the 2011 general elections. In other words, this paper also suggests areas where further reforms are required in order to strengthen these institutions, and how any observed loopholes in Yar'Adua's corruption fight could be avoided, in order to make the war against corruption in Nigeria more effective in the post-2011 era.

GENESIS OF NIGERIAN'S ANTI-CORRUPTION CAMPAIGN

Ever since Nigeria's First Republic collapsed in July 1966 amid allegations of massive corruption, the fight against corruption has developed into an important public policy issue. But current steps taken towards a corruption-free society in Nigeria are mainly a result of the efforts of the Obasanjo regime, which for eight years erected it as a major policy priority¹. The elevation of corruption to an urgent national issue by Obasanjo was itself motivated by a combination of some domestic and global developments.

At the domestic level, Obasanjo's anti-corruption drive was propelled by an unprecedented disclosure of evidences of corruption perpetrated by his immediate predecessors, especially the late General Sani Abacha, who ruled Nigeria from 1993 to 1998. After his death in 1998, his successor, General Abdusalami Abubakar, launched a probe into his financial dealings. These investigations uncovered large evidences showing that Abacha and his collaborators had diverted billions of dollars in public funds into several local and overseas bank accounts, while also corruptly acquiring choice properties in many locations within and outside the country. Public call for a strong anti-corruption stance by the newly elected civilian government was further fuelled by the caution with which General Abubakar treated those indicted by his probe. Apart from seizing a few assets held within Nigeria, publishing a list of dozens of foreign bank accounts used to stash looted funds and writing letters to some foreign governments urging them to support efforts to recover assets kept within their territories, the regime refused to undertake any serious anti-corruption measures. It made little or no tangible effort in recovering Abacha's estimated \$4-6 billion overseas assets.

¹ J. O. Magbadelo, *Nigeria's Transition to Democracy and Development: Contributions of the Obasanjo Administration*, Ibadan, Spectrum Books Limited, 2006. P.46.

Also, the issue of corruption by other past regimes, including assets looted under those regimes, was never raised. More worrisome, throughout his tenure in office, the Abubakar regime resisted public pressures to put any member of the Abacha government on trial for corruption, because “there was no evidence of sufficient strength” to try anyone².

The administration’s selective punishment for Abacha was targeted at procuring political legitimacy, while at the same time avoiding any potential political backlash that may result from a wider anti-corruption crusade³. Worse still, sooner or later it became clear that the regime also lacked the integrity necessary for any successful anti-corruption drive. Indeed, members of this regime turned out to be as corrupt as those that served under the Abacha

² The Guardian (Lagos), May 10, 1999.

³ Why a high profile anti-corruption crusade will always generate popular acclaim in Nigeria, it does provoke anger and frustration among Nigeria’s political class with vested interest in the *status quo*. Thus, the two leaders who had pursued what could be regarded as an aggressive campaign against corruption in Nigeria in the past did not last in power. General Murtala Mohammed was brutally assassinated after only 6 months in power, while General Mohammadu Buhari which regarded itself as an offshoot of the Mohammed regime managed 18 months.

administration⁴. Ultimately, many Nigerians felt that a democratic administration would be more suited to fight corruption.

At the global level, the war against corruption was motivated by a genuine desire to correct Nigeria’s frequent appearance at the top of the table of the world’s most corrupt nations. Between 1999 and 2003, Nigeria occupied either the 1st or 2nd position in Transparency International’s survey of the most corrupt countries of the world (the *Corruption Perception Index*)⁵. This became not only a source of personal embarrassment to Nigerian officials travelling overseas, especially President Olusegun Obasanjo who was himself one of the founding members of Transparency International, but also an obstacle to the government’s much desired goal of reconciling Nigeria with the international community, after many years of diplomatic isolation, of securing debt forgiveness, and much needed foreign investments.

⁴ For some details on the corrupt activities of some senior members of the Abubakar regime, see Federal Republic of Nigeria, ‘Commission of Inquiry for the Review of Contracts, Licenses and Appointments’, Vol. 1-4, Main Report, Abuja, November 1999.

⁵ These surveys are available on: <http://www.transparency.org>.

To make matters worse, negative international publicity against Nigeria coincided with a time when the international community became increasingly concerned about lack of good governance and its consequences in developing countries. As a result, the Obasanjo government was placed under international pressure and threats of sanctions, to implement measures against corruption and other forms of financial crimes. The Nigerian government was also promised some benefits if reforms were implemented. This included a possible debt write-off, which materialised when the Paris Club wrote off \$18 billion, representing 60 percent of Nigeria's debt, in early 2005.

NIGERIA'S ANTI-CORRUPTION CAMPAIGN UNDER OBASANJO

President Obasanjo's anti-corruption strategy involved a wide variety of measures, three of which were particularly outstanding. The first one was the creation of specialized anti-corruption agencies, the Independent Corrupt Practices and other Related Offences Commission (ICPC), in September 2000 and the Economic and Financial Crimes Commission (EFCC) in April 2003, to investigate and prosecute

corrupt individuals. The other two included a comprehensive anti-corruption reform of the public services, including the judiciary⁶ and an international campaign directed at stopping the flow of stolen funds abroad, as well as recovering funds already stolen and stashed away in Western banks. These measures were complemented by other important steps taken by the government to advance the anti-corruption crusade: signing and adoption of several anti-corruption laws and international treaties, sacking of some prominent officials accused of corruption, establishments of ad-hoc commissions of inquiry to probe specific allegations of corruption, regular public statements or speeches denouncing corruption and calling for an ethical reorientation.

Out of these, the inauguration of ICPC and EFCC in 2000 and 2003 respectively were the most important steps taken. These bodies were touted by the

⁶ Specifically, these reforms were aimed at eliminating monopoly, through privatisation and deregulation, reducing discretion through the streamlining of functions and reinforcement of controls, and removal of administrative opacity by increasing transparency and accountability, especially in public revenue collection and expenditure. The aggressive implementation of these policies, it was hoped, would reduce the opportunities for corruption among public officials.

administration as the most effective deterrence against corruption. Much of this optimism was derived from the activities of such bodies in other countries (e.g. Hong Kong and Singapore) which was said to have contributed to a drastic reduction in the level of corrupt practices through speedy investigation and prosecution of corrupt individuals. This optimism however turned out to be exaggerated, as both, despite a spirited attempt to check corruption, faced deep institutional and political challenges which greatly limited their effectiveness and credibility. Similar challenges affected the attempt to recover looted assets. A brief recount of these challenges, especially as they affects the level of achievement recorded by these two bodies under Obasanjo will help us understand why it became necessary to reform them after Obasanjo left office.

ICPC, EFCC and the War Against Corruption under Obasanjo

The ICPC was inaugurated in September 2000, while the EFCC began operations in April 2003. Unlike similar institutions set up in Nigeria in the past, both agencies were given relatively broad powers and mandates to fight corruption and related offences. For instance, the

powers of the ICPC as provided in Section 6(a) to (f) of the ICPC Act, include the power to receive and investigate complaints from members of the public on allegations of corrupt practices and to arrest and prosecute those responsible. The agency is also empowered to examine the practices, systems and procedures of public bodies, and in cases where such systems aid corruption, it would direct and supervise a review. In other words, it would instruct, advise and assist any officer, agency or parastatal of government on the ways fraud or corruption may be eliminated. Although Nigeria had never convicted anybody for corruption in a regular court, the wide powers given to these agencies raised considerable hope that corrupt officials were in for a tough time.

Immediately after its inauguration, ICPC took steps to implement its mandate. Within the first year of its existence, four individuals were charged to court for various corrupt offences. The number rose to 23 at the end of its second year (September 2002), and 49 at the close of its third year in September 2003⁷.

⁷ These included a High Court judge, prominent lawyer (Senior Advocate of Nigeria, SAN), chairmen of private and public companies,

These cases stemmed from a total of 17 criminal pursuits, which themselves emanated from hundreds of petitions submitted to the ICPC by different individuals and groups⁸. As of December 2006, the ICPC was prosecuting 185 persons in a total of 91 cases around the country (39 were filed in 2006 alone). In October 2008, the number of cases in court stood at 161 involving 309 persons⁹. But as the number of cases filed before the courts rose, the number of convictions remained stagnant. The number of successful prosecutions from September 2000 to June 2006 was only two. The number only increased to 20 in 2007, none of whom was a prominent figure. In other words, the ICPC could not translate all its efforts into tangible successes. This dismal performance caused substantial discomfort among the populace and within the international community, giving room for further pressure on the government. This renewed pressure culminated in the establishment of the EFCC in April 2003.

chairman of government parastatals and local councils, Directors General/ Permanent Secretaries), Ministers, former governors, Senators and a former Senate President, among many others. Independent Corrupt Practices and Other Related Offences Commission, *Progress Report: September 2000-July 2005*, Abuja, 2006.

⁸ Ibid.

⁹ ICPC Monitor, Vol. 1 Issue 5, August-October 2008. p ; 34

The arrival of the EFCC brought some improvement in Nigeria's fight against corruption for two main reasons. Firstly, the ICPC was constrained by the limited coverage of its Act, which provided that ICPC can only investigate corruption involving public officers. These corrupt acts must have also occurred after the inauguration of ICPC, not before. The EFCC is endowed with wider powers and responsibilities, which include conducting investigations of crimes of financial and economic nature, including corruption, money laundering, advance fee fraud or 419, bank fraud, etc., whether in the public or private sector, and arresting and prosecuting the perpetrators of such crimes. A second reason has to do with differences in their approach. In comparison with the slow bottom-up-approach of the ICPC, meaning an emphasis on public education in contrast to aggressive measures like arrest and prosecution of high profile individuals, the EFCC right from its inception favoured a more confrontational approach to corruption.

Available data show that the EFCC indeed achieved more than the ICPC in many areas, especially in the key areas of prosecution and recovery of illegally

acquired wealth. Between April 2004 and June 2006, EFCC recovered over \$5 billion (or N725 billion) from financial criminals, both in form of cash and assets¹⁰. The proceeds from the recovery were returned to individuals who have been defrauded, or to the public treasury, in the case of assets seized from corrupt officials or private companies who had defrauded the government in such areas as tax evasion or contract inflation. The amount recovered by ICPC was only N212 million in 2005 and N3,9 billion in 2006¹¹. For the 2007 fiscal year, 4,7 billion naira was the amount recovered following a review of allocation and expenditure profile of personnel costs of Ministries, Departments and Agencies¹². The EFCC's superior achievement was even more glaring in the area of criminal investigations, prosecutions and convictions. During the same period under review (2004-2006), it arraigned more than 300 persons and won a total

of 92 convictions¹³. By 2007 (January-September), a further 53 convictions were secured, reaching 350 December 2008¹⁴.

**Report Card of ICPC and EFCC as at end of
2006/2007**

Agency	EFCC	ICPC
Number of Persons Arraigned	300+ (2006)	185 (2006)
Number of Persons Convicted	145 (2007)	20 (2007)
Value of funds/Assets Recovered	N725 billion (June 2006)	N3.9 billion (2006)

The unprecedented achievements of the EFCC brought the organization and its leadership a lot of public support but at the same time caused considerable discomfort among members of the political elite, notably federal legislatures and state governors who had supported its creation. There were at least two plausible explanations for the political elite's initial acquiescence, if not open

¹⁰Assets recovered came from a wide variety of sources, included banks deposits, buildings and other landed properties within and outside the country, vehicles, ships, aircraft, company stocks etc.

¹¹ *Independent Corrupt Practices and Other Related Offences Commission, Annual Report op cit., p.5.*

¹² See *Independent Corrupt Practices and Other Related Offences Commission, Annual Report for 2006-2008, Abuja.*

¹³ Nuhu Ribadu, "Combatting Money Laundering in Emerging Economies: Nigeria as a Case Study", Guest Lecture Series, Financial Institutions Training Centre/Nigerian Institute of International Affaires, Lagos, August 10 2006.

¹⁴ My interview with the Deputy Head of Legal Department at the EFCC Headquarters in Abuja took place on the 5th of December 2008.

support, for the creation of the EFCC. One was mounting external pressure. Secondly, the EFCC was not considered as a threat by members of the Nigerian political class¹⁵. They simply saw it as a weapon against fraudsters in the banking industry or individuals specialising in Advance Fee Fraud, commonly known as 419 in Nigeria. This thinking however proved to be a big mistake. Contrary to the expectation of the political class, the EFCC, under a young a dynamic leadership, made the political leaders, which it correctly identified as the major drivers of corruption, its first and principal target. By focussing on those whose political fortunes depend almost totally on the personalisation and redistribution of state resources (a metaphor for corruption in Nigeria), the EFCC became very unpopular with this group. This was not helped by the Obasanjo government's own attempt to employ the agency as a weapon to undermine political rivals ahead of the 2007 general elections.

The activities of the EFCC still led to positive changes in international

¹⁵ It should be recalled that the EFCC emerged largely in response to pressures from the FATF, which wanted to see stronger financial crimes laws adopted, especially to check such crimes as the advance fee fraud and drug trade.

perceptions of Nigeria. This is indicated in the annual Transparency International Corruption Perception Index after 2004, Paris Club debt forgiveness, massive foreign financial grants and flattering commendations.

**Nigeria's Improving Position in TI's
Corruption Perception Index**

<u>Year</u>	<u>Score</u>
<u>Position</u>	
2008	2.7
121/180	
2007	2.2
147/180	
2006	2.2
142/179	
2005	1.9
152/158	
2004	1.6
144/145	
2003	1.4
132/133	
2002	1.6
101/102	
2001	1.0
90/91	
2000	1.2
90/90	
1999	1.6
98/99	
1998	1.9
81/85	
1997	1.7
52/52	
1996	0.6
54/54	

Source: Transparency International, Corruption Perception Index: 1996-2008.

In reality, however, the achievement of the EFCC under Ribadu was far from perfect. Indeed, the EFCC could neither individually nor jointly with ICPC solve Nigeria's corruption problem. As a matter of fact, only few of the persons convicted through the efforts of the EFCC were actually guilty of corruption, which is commonly defined as the act of using 'official positions' to fester one's nests or those of close relatives or allies in violation of existing rules or norms¹⁶. Most were individuals engaged in cyber fraud, advance-fee-fraud (locally known as 419) and money laundering activities, offences that were said to be easier to investigate and prosecute, and are usually perpetrated by people with little or no political influence¹⁷. Thus, even though a large number of top public officials, including a handful of former

¹⁶ Khan's definition is probably a standard one in this regard: He defines corruption as "any act which deviates from the rules of conduct, including normative values, governing the actions of an individual in a position of authority or trust, whether in the private or public domain, because of private- regarding motives, (that is non public or general) such as wealth, power, status etc". See M.H. Khan, "A Typology of Corrupt Transactions in Developing Countries", IDS Bulletin: 27(2), 1996. pp. 12-21

¹⁷ This view was expressed frequently during the interviews carried out with the heads of the legal departments at the ICPC and the EFCC in December 2009.

governors, have been charged by the EFCC for corrupt practices, only two senior public officials were convicted by the EFCC for using their positions to enrich themselves when Obasanjo left office in May 2007. The two were Mr Tafa Balogun, former head of the Nigeria Police, and Mr. DSP Alamiyeseigha, former governor of Bayelsa state, both of whom were convicted by the EFCC for corruption and money laundering offences in 2005 and 2007 respectively.

Explaining Failure: The Institutional and Political Dimensions

Why did the EFCC and ICPC fail in bringing top public officials to book under the Obasanjo administration? A close scrutiny of the records of the two anti-graft bodies under Obasanjo reveals two key challenges.

The first challenge is institutional, incorporating a chronic shortage of funds and an inefficient judicial system. For the first five years of its existence ICPC got an average of 500 million Naira or \$3.8 million in yearly budgetary allocations. Persistent demands by the ICPC for more funding were either turned down by government (which often cited the need to meet other priorities) or met with promises of increased funding in

subsequent financial years that never materialized. This poor level of funding, according to its managers, was one of the primary sources of its ineffectiveness¹⁸. The agency often found it difficult to pay for the services of experienced and talented hands, especially lawyers. Corruption investigations do also at times require a lot of money, especially when investigators need to be sent abroad to track stolen assets or source for incriminating evidence, the reason why the ICPC never took any step in that area. This is certainly one of the reasons why the EFCC which received more funding, most of them from international sources¹⁹, recorded greater achievement in many areas, including manpower (more than double the ICPC's size),

¹⁸ ThisDay (Lagos), June 4, 2005.

¹⁹ The scope of the activities of the EFCC, which covered financial crimes such as advance fee fraud, money laundering and terrorism financing, obviously attracted the attention of the international community than did the ICPC. On November 25 2005, EFCC was given a grant of 24.7 millions euros (3.8 billion naira) by the European Union. The sum will be managed by the *United Nations Office on Drugs and Crimes*, will be used to: "provide the EFCC with required equipment and technical support, further improve the knowledge of the agency's staff through training, in-country and overseas as well as to strengthen the capacity of the judicial system to handle economic and financial crimes". The Punch (Lagos) November 26, 2005. Total support from the EU to the EFCC is said to be worth \$32 millions (4,16 billion naira) as at October 2006. The Guardian (Lagos), October 11, 2006.

branch network (it had 3 to ICPC's 1 during the period 2000-2005, investigations and prosecutions. Consistent shortage of funds also meant that these agencies, particularly the ICPC could not hire sufficiently qualified investigators and prosecutors to fight its case in the law courts. This problem was compounded by Nigeria's inefficient and slow judicial process. The delays were usually caused by the frequent adjournments and the interlocutory orders and injunctions normally granted accused persons by the courts. But the problem is also linked to the limited capacity of ICPC's lawyers and investigators, which explains why many cases filed by the ICPC were thrown out by the courts on technical grounds. However, the conviction of Mr. Tafa Balogun and ex- governor DSP Alamieyeseigha showed that with some political will, the EFCC and ICPC could still live up to their responsibilities.

More damaging to the anti-corruption effort of the Obasanjo administration was an observable tendency to employ these anti-corruption agencies, especially the EFCC, as a weapon for destroying political rivals. This became more noticeable as the second term of President Obasanjo drew to a close. The crusade against corruption, and the anti-

corruption agencies by extension, at one time even became an instrument for disqualifying unwanted political aspirants and paving the way for the smooth election of Obasanjo's chosen candidates into the various elective offices²⁰. The best known example was the widely criticized bid to prosecute Obasanjo's Vice President, Atiku Abubakar, and his close political and business associates over allegations of corruption. The political motives in the EFCC's case against Atiku Abubakar were underlined by the provisions of Section 137 (1)(i) of the Nigerian Constitution which states that any person indicted for corruption can not stand in any election in Nigeria²¹, and of course the haste with which the EFCC's report indicting Atiku Abubakar was accepted and gazetted by Obasanjo who was known to be strongly opposed to his participation in the 2007 presidential elections²². This action was taken just few weeks to the election.

²⁰ My Interview with federal lawmaker and former aide to the EFCC boss, Rabe Nasir, took place in his office in Abuja in July, 2009.

²¹ See Federal Government of Nigeria, *Constitution of the Federal Republic of Nigeria 1999*, Abuja, 1999.

²² Atiku Abubakar was ultimately allowed to participate in the elections on the platform of the Action Congress, courtesy of a Supreme Court judgment, which held that Obasanjo's attempt to disqualify him from the elections on the basis of his

The ICPC was thus widely perceived as 'a toothless dog', while the EFCC, which was regarded as relatively more effective, was increasingly criticized for becoming selective and turning into an instrument for witch-hunting political enemies.

YAR'ADUA AND THE WAR AGAINST CORRUPTION: A NEW DAWN OR BUSINESS AS USUAL?

The election of President Umaru Musa Yar'Adua raised hopes that the war against corruption would be re-energized and strengthened. The President himself promised to take the fight against corruption to a new height, vowing to run a 'clean government' based on the 'rule of law': *"If the federal Government is to take action against any person for any act of corruption which has been determined, without doubt, the government will act....As it stands, I assure you that the federal Government has zero tolerance for corruption. But also in the process, the rule of law and due process must be followed"*²³.

double indictment was illegal and of no effect whatsoever.

²³ Th Punch, September 3, 2007. P.2.

Similarly, while receiving the visiting World Bank Vice-President for Africa, Mrs. Oby Ezekwesili, the President assured the world that he will not seek to instrumentalize the anti-corruption agencies. In his words: *“I have given all the institutions a free hand. I have told them I won’t interfere, because I am strongly in support of the fight against corruption. No hurdle has been put on their paths. The only thing I have made very clear is that they must follow the rule of law and due process”*²⁴.

To what extent were these promises kept? How did the anti-corruption war fare under Yar’Adua? Did specific improvements occur? If not, what challenges were encountered? The above were some of the questions we put before our respondents during interviews. The more widely held view was that the Yar’Adua administration presided over a dramatic lull in the tempo of Nigeria’s anti-corruption campaign. This view is voiced by many donor organizations, Nigerian civil society groups, including Transparency in Nigeria, the local arm of the global anti-corruption watchdog and highly placed sources in government, including some

within the anti-corruption agencies. For example, Titi Ogunye of the Civil Liberties Organization, was of the opinion that: *“Events since May 2007, particularly recent events relating to the EFCC, indicate that the fledging anti-corruption crusade handed over to the Yar’Adua administration is facing a reversal of the worst kind. The challenge before the Nigerian people is to resist this subversion and build ownership around the anti-corruption effort”*²⁵. In a similar tone, one senior civil servant in the Presidency, described the President’s frequent talk about ‘human rights’ as a smoke screen for protecting some of the President’s friends, especially the former governors, who are guilty of corruption²⁶.

There are at least three main reasons for this pessimistic view of Nigeria’s anti-corruption campaign under the Yar’Adua administration. The first one was the perception that prosecutions of top public officials, like the implementation of several other government policies, were stalling after Yar’Adua took over. It

²⁴ The Punch, January 16, 2008. P.9.

²⁵ Titi Ogunye, leader of the CLO was cited in Ben Ukwuoma et al, “Raising the Stakes in the Fight against Corruption in the Country”, The Guardian, July 11, 2008. P.28-29.

²⁶ Interview with this official, an Assistant Director in the Cabinet Office/Office of the Secretary to the Government of the Federation, took place in Abuja December 17, 2008.

was in this light that President Yar'Adua was derisively nick-named *baba-go-slow* by sections of the Nigerian press. The second was the feeling that some ex-public officials accused of corruption by the EFCC, especially the former governors who played key roles in the election of President Yar'Adua, were been shielded from justice under the pretext of following the 'Rule of Law'. The third major source of concern was the fact that, some anti-corruption crusaders (such as Nuhu Rubadu, the former chairman of the EFCC and Malam Nasir El-Rufai, former Minister of the Federal Capital) have been purged from their positions.

Slow Down in the Prosecutions of Top Public Officials

The first reason for the negative perception of the campaign against corruption under Yar'Adua does not stand up completely to the available facts. Our review of local press for the period covering Yar'Adu's administration and documents obtained from the offices of the EFCC and the ICPC, showed that the arrest and investigation of individuals and officials suspected of corruption did not cease. The trial of officials and individuals investigated or charged to court by the anti-corruption

agencies during the Obasanjo administration (notably former governors) continued. Similarly, a number of new cases involving politically exposed persons (PEPs) were started under Yar'Adua. Many of these new cases were later taken to court²⁷. According statistics published by the EFCC on May 1, 2010, the number of high-profile cases being prosecuted in the courts by the EFCC were only 10 in May 1, 2008. However, two years later, the number has increased to 50. Within the same time frame, the EFCC added a total of 100 new convictions, bringing the total to 400, while also recovering some illegally acquired funds in excess of \$3.5 billion (EFCC, 2010).

Some of the officials involved in the 40 new high profile cases include two former ministers of Aviation, Professor Babalola Borishade and Femi Fani-Kayode who were arrested and charged to court in July 2008 for their handling of the N19.5 billion Aviation Intervention Fund²⁸. The list also includes the daughter of the former President, Iyabo Obasanjo-Bello (May 19, 2008) who is a

²⁷ Interview with the Acting Head of EFCC's Legal Department, in Abuja.

²⁸ See Zero Tolerance (The Magazine of the Economic and Financial Crimes Commission), Vol. 3 N° 2, August, 2008. p.48.

Senator, former Minister of Health Adenike Grange, her deputy and several senior officials of the Ministry of Health (April 7, 2008), docked over allegations of sharing of N300 million belonging to the Ministry of Health²⁹. Mrs. Obasanjo-Bello was said to have received N10 million, part of the N300 million, in her capacity as the Chairperson of the Senate Committee on Health. Also the former governor of Plateau state, Michael Botmang was arraigned on the 17th of July 2008 for allegedly stealing N1.7 billion in the six months he ruled as governor following the brief suspension in 2006 of the substantive governor, Joshua Dariye, as well as Boni Haruna, former governor of Adamawa, who was charged on 5th of August on 21 count charges of corruption³⁰.

The case of the ex-governors needs to be clarified further. Although there persistent reports in the media suggesting that the new leadership of the EFCC was considering a review of the cases against the ex-governors³¹. These have turned out to be untrue. Indeed, at one point, at least 11 former governors were placed under trial. One of them was

former governor of Edo state, Lucky Igbinideon, who was subsequently convicted for corruption by a high court through the EFCC. Although he was later released upon the payment of a fine, his conviction represented the biggest achievement of the EFCC since the conviction of former governor of Bayelsa state in 2006. Even the relatively weaker ICPC also recorded some improvement during the period under review. For instance, the number of cases being pursued in the courts by ICPC rose from about 91, involving 185 persons, in 2006 (ICPC,2006; 21) to 142 cases involving 269 persons by the end of 2007 (ICPC,2007; 21). The number of cases under prosecution for 2008 was 186 (ICPC, 2008;15). As at the time of our last visit to the ICPC June 2010, the figure stood at 215³². There is very little evidence to support the allegation that there had been a change of policy on the issue of prosecuting ex-officials, including the ex-governors. Despite public perception, the prosecution of top public officials for corruption and other related offences did not slow down while Yar'Adua was in office.

²⁹ ThisDay, May 20th, 2008. p.1 .

³⁰ ThisDay August 6, 2008. p.9.

³¹ Thisday, July 25, 2005. p.1; The Nation, July 25, 2005. p.7.

³² This information was contained in a undated document provided by a member of ICPC's Research and Planning Department, June 2010.

Harassment of Former Anti-Corruption Crusaders

The deliberate harassment of former anti-corruption crusaders, especially those associated with the Obasanjo administration, was another development supporting the widely held view that Yar'Adua was not very sincere about the anti-corruption campaign. The most visible manifestation of this was certainly the trial of Malam Nasir El-Rufai, the former reform-minded Minister of the Federal Capital, and the controversial removal of Nuhu Ribadu as Chairman of the EFCC in December 2007. Ribadu, who enjoyed much support from the Obasanjo administration and was greatly patronised by the international donor community, was initially said to be on course, which implied that he will be allowed to return to his position³³. But the appointment on May 15 2008 of a substantive head for the EFCC, Mrs Farida Waziri, proved that this was never the governments' intention. In what looks like an afterthought, on June 26, 2007, the Attorney-General and Minister of Justice, Mr. Michael Aondoaka, informed the public that Mr. Ribadu was

removed as a result of human rights violations perpetrated by the EFCC under his lead³⁴. This argument was flatly rejected by most informed opinion in Nigeria. Even then, the government's own position was not helped by the untidy manner in which the former EFCC Chairman was demoted and later dismissed from his main job in the Nigeria Police, an event that had been predicted by one of the former governors facing trial for corruption. After his dismissal, Mr. Ribadu fled into exile in the United Kingdom alleging threats to his life. He only returned to the country after President Yar'Adua had passed on and was replaced by his deputy, Dr. Goodluck Jonathan, who subsequently dropped all charges and accusation levied against him. Ribadu's removal as head of the EFCC, in turn precipitated the removal and resignation of several other officials who worked with him in the EFCC.

Mr Ribadu's removal as Chairman of the EFCC and subsequent brush with the Police authorities was itself preceded by many months of open tussle for power pitching the former EFCC Chairman and Yar'Adua's Attorney-General and Minister

³³ The Nation, December 28, 2007. p.1.

³⁴ The Nation, June 27, 2008. p.9.

of Justice, Mr. Michael Aondoaka, over who should be in control of the trial of the ex-governors. This Attorney-General had once served as a defense lawyer to one of the former governors been tried by the EFCC (George Akume of Benue state). The later was also said to have facilitated his appointment to his new job. The Attorney-General and Minister of Justice's role in this matter was therefore understandably tilted in favour of the former governors. Indeed, in the course of his duties as Minister, he left no one in doubt about his determination to protect not only his benefactor, but also all the other accused former governors. One way he tried to do that was to take over the trial of the ex-governors, under the pretext that this was premised on the 'administrations respect for rule of law' and 'the need for government to obey all judicial orders'³⁵. President Yar'Adua himself did not openly support this action, but consistently ignored public pressure to call the Attorney-General and Minister of Justice to order.

In the end, the Nuhu Ribadu-led EFCC managed to resist the move by the Attorney-General and Minister of Justice, insisting, with the support of a greater

percentage of the public and majority of Nigerian legal practitioners, that it has the powers to prosecute the former governors. But this action worsened relations between the EFCC and the office of the Attorney-General and Minister of Justice, culminating in the removal of Mr. Nuhu Ribadu as Chairman of the EFCC in late December 2008. His removal had both immediate and long term consequences for Yar'Adua's anti-corruption drive. In the immediate period, it slowed down the pace of the anti-graft war. In the longer term, it further undermined the legitimacy of Yar'Adua's war against corruption. It was not surprising that one of the very first actions President Goodluck Jonathan, was the removal of Mr. Aondoaka, first as Attorney-General and Minister of Justice, and subsequently, member of the Federal Executive Council.

³⁵ The Punch, September 18, 2007. p.14.

President Yar'Adua's Close Relations with Ex-Governors

A second factor that negatively affected public confidence in Yar'Adua's anti-corruption campaign related to his personal closeness to some ex-governors, who are widely perceived as corrupt. Among the most prominent of this class of ex-governors are James Ibori and DSP Alamieyeseigha, the convicted former governor of Bayelsa state. Both men wielded considerable influence over Yar'Adua. Mr. DSP Alamieyeseigha became some sort of unofficial adviser or 'consultant', according to one of our respondents, to the President on the Niger Delta conflict. A very senior official within the Presidency confirmed during an interview with us that at least six of the ex-governors were among those considered for the 2009 edition of the annual national honor exercise, during which the President honour individuals who had contributed to the development of the nation³⁶. Many of them were appointed Federal Ministers by President Yar'Adua. These included Sam Egwu, former governor of Ebonyi state who became Minister of Education, and Achike Udenwa, former governor of Imo

state, who was appointed Minister of Commerce and Industry.

In July 2009, the EFCC published a list of 56 prominent people, many of them senior public officials, such as former governors, ministers, permanent secretaries, civil servants, chairmen and members of parastatal agencies, local government chairmen, members of the House of Representative and senators, who were accused of collectively removing over N243 billion from the nation's treasury. The document which was tagged "Ongoing High Profile cases" also stated how much money was allegedly embezzled by each of these individuals, which ranged from N10 million to N100 billion³⁷. The list was subsequently handed over to the leadership of the Nigerian Labour Congress, which is the central umbrella organization of the Nigerian trade unions, as part of strategic partnership to intensify the fight against corruption in the country. Subsequently, all 56 individuals were charged to court in 33 separate cases.

³⁶ A top civil servant with the Presidency confirmed this statement during an interview in December 2008.

³⁷ Nigerian Tribune, July 10, 2009.

Names on the EFCC List

S/no	Name	Amount
1.	Bode George, ex-Chairman Nigeria Ports Authority	N100 billion
2.	Saminu Turaki, ex-goveronor of Jigawa state	N36 billion
3.	Patrick Fernandez, Indian businessman	N32 billion
4.	Tom Isegholi, Mohammed Buba & Mike Okoli,	N15 billion
5.	Transcorp PLC	N7.7 billion
6.	Kenny Martins, Police Equipement Fund	N6 billion
7.	Rasheed Ladoja, ex-governor of Oyo state	N5.6 billion
8.	Roland Iyayi, ex Managing Director of FAAN	N5.6 billion
9.	Babalola Borishade, ex Minister of Aviation	N5.6 billion
10.	Eider George, Austrian Businessman	N5.2 billion
11.	Chimaroke Nnamani, Senator and ex governor Enugu state	N5 billion
12.	Senator Nicholas Ugbane and 9 members of House of Rep.	N4.7 billion
13.	Orji Uzor Kalu, ex governor of Abia state	N3.6 billion
14.	Nyeson Wike, Chief of staff to Rivers state governor	N1.5 billion
15.	Four senior Zenith Bank Managers	N636 million
16.	Michael Botmang, ex acting governor of Plateau state	N250 million
17.	Molkat Mutfwang and 3	N180 million
18.		N93 million
19.		N43 million
20.		N17.5 million
21.		N10 million
22.		Amount not stated

others	
Femi Fani-Kayode, ex Minister of Aviation	
Jolly Nyame, ex governor of Taraba state	
Boni Haruna, ex governor of Adamawa state	
Dr. Albert Ikomi, retired Permanent Secretary	
Dr. Yuguda Manu, Chairman, Taraba state Civil Service Commission	
Iyabo Obasanjo, Senator and daughter of ex President Obasanjo	
Joshua Dariye, ex governor of Plateau state	

Source: Nigerian Tribune, July 10, 2009

One major problem with the list, that raised public concern, was that in compiling the list, the EFCC had deliberately excluded the names of some 'well-connected people' who had also been accused of embezzlement, some of which were also standing trial. One of them is James Ibori, the immediate past governor of Delta state who was accused of stealing over N10 billion. During Ribadu's tenure, the EFCC made desperate efforts to prosecute Mr. Ibori. These efforts came to naught under Yar'Adua, when Mr. Ibori was released on bail and even went on to secure one legal victory after the other against the EFCC. Few months after the emergence

of President Jonathan, Mr. Ibori was declared wanted by the EFCC, and subsequently arrested in Dubai. This selective approach of listing some corrupt officials and omitting others, by the current EFCC Chairman, Farida Waziri, and EFCC's changed posture towards former governor James Ibori show how difficult it is to separate politics from the work of anti-corruption agencies in Nigeria. It also shows how much continuity there was between the regimes of President Obasanjo and Yar'Adua in the area politicization of the anti-corruption crusade.

Why did President Yar'Adua find it so difficult to distance himself from a few ex-governors? A good understanding of the influence these ex-governors wielded under Yar'Adua cannot be possible without first understanding that Yar'Adua, the former governor of Katsina state, won his party's nomination as a result of the support of these governors, who controlled their party's machinery in their various states, and unanimously chose him as their candidate for the April 2007 presidential elections. After securing his nomination as the candidate of the ruling party, they collectively worked for his success at the presidential polls. In return, a very

grateful Yar'Adua seemed to be ready to do all he could to protect their interests once elected. Unfortunately, his unwillingness or inability to dispense with these few powerful political figures after his elections turned out to be the major liability for his fight against corruption.

Anti-Corruption Campaign as A Non-Priority

Thirdly, and perhaps more importantly, another minus for the anti-corruption fight was that, even though Yar'Adua had a personal reputation for honesty and never shied away from emphasizing his administrations commitment to fighting corruption, his efforts against corruption were certainly not as vigorous as they were under his predecessor Olusegun Obasanjo. Yar'Adua's approach was generally mild, done with less publicity, with a lot of emphasis on respect for the rights of the accused and due process. Indeed, it was pretty clear that anti-corruption campaign did not rank first among the priorities of the Yar'Adua government. For instance, the anti-corruption campaign did not feature in his much publicized seven point agenda, which included agriculture, electricity, employment, health, electoral reform, the Niger Delta and housing. This contrasts sharply with what obtained

under the Obasanjo administration, where corruption was more or less the number one priority, and featured prominently in virtually all speeches given by the President.

A plausible explanation for this different approach – apart from differences in personalities of the two Presidents –, concerns the changed international environment within which Yar'Adua operated. Much of the negative international reportage and diplomatic pressures which Nigeria faced at the beginning of Obasanjo's Presidency had largely abated by the time Yar'Adua assumed office in May 2007. This more conducive environment, produced by the little improvements brought by Obasanjo's earlier campaign against corruption had ironically removed most of the incentive available to fight corruption.

CONCLUDING REMARKS AND LESSONS FOR THE NEXT ADMINISTRATION

For many decades, Nigeria has grappled with the challenge of eradicating corruption from its body polity with little success. In 1999, following the election of President Olusegun Obasanjo, the

country launched a new crusade against corruption. Due to its more elaborate nature³⁸, international pressure and President Obasanjo's personal involvement in anti-corruption activities in the past, this campaign attracted considerable attention and interest. The heightened attention was also due to the fact that it was the first time a Nigerian leader made the fight against corruption his number one policy priority, which indeed culminated in the fall of quite a number of highly placed public officials (Senate Presidents, Speaker of the Federal Parliament, State Governors, Ministers, Head of public parastatals, etc.).

Yet, Obasanjo's anti-corruption fight was also politicized, especially towards the end of his second term in office, when it was employed to destroy his political adversaries, such as Vice-President Atiku Abubakar, without regards to constitutional rights and due process. The question of whether corruption was not increasing even under a regime that

³⁸ Unlike previous anti-corruption programmes in Nigeria, Obasanjo's anti-corruption policy offered a far more comprehensive anti-corruption strategy, encompassing the setting up of specialised anti-corruption institutions, implementation of a host of public sector reforms and some international measures aimed at the repatriation of looted funds stashed away in some secret overseas accounts.

was supposedly fighting corruption was also raised, just as there were arguments about whether the campaign against corruption was not originally designed to please the international community. Those concerns were mainly due to the way of the fight against corruption was conducted or carried out by the major anti-corruption agencies, the EFCC and the ICPC.

The inauguration of these agencies had raised a lot of hope. Even though it was not the first time anti-corruption agencies were inaugurated in Nigeria (e.g. the Corrupt Practices Investigation Bureau in 1975 and Code of Conduct Bureau in 1979 respectively), the unprecedented powers and promise of political support given to these institutions led many analysts to believe that a lasting solution might have been found to Nigeria's perennial struggle with corruption. As it soon turned out, these institutions achieved very little in terms of deterring Nigerian public officials and politicians from looting public resources. More discouraging, the credibility earned by the EFCC, following the successful arrest and prosecutions of highly placed criminals, soon began to evaporate when allegations of violations of human

rights³⁹ and selective application of anti-corruption laws (against Obasanjo's political enemies) surfaced towards the April 2007 elections. The politicization of these agencies under the Obasanjo administration gradually rendered the campaign against corruption difficult, if not plainly ineffective.

After President Obasanjo left office, President Umaru Yar'Adua came to power in May 2007 promising to reform and continue the anti-corruption struggle. Some of the new changes introduced included shake-up in the leadership of the EFCC, Nigeria's most powerful anti-corruption agency; increased emphasizes on respect for the fundamental human rights of accused persons and greater respect for rule of law and due process, just to mention a few. Also under Yar'Adua, the anti-graft agencies continued to arrest and arraign more individuals, including highly placed officials, for corruption. But despite this, the general public continued to express the view that the 'vigorous' fight against corruption under Obasanjo has become

³⁹ At least one high profile detainee died in one of EFCC's numerous detention facilities. The victim, Maurice Ibekwe, a member of the House of Representatives, who was standing trial for advance-fee-fraud related charges died after his request that he be allowed to go home to seek medical attention was turned down by the EFCC.

inefficient under the legacy of Yar'Adua, so that throughout his three year stay in office, Yar'Adua's anti-corruption drive attracted more criticisms than praise.

It was observed that the positive measures taken by the Yar'Adua government were unfortunately overshadowed by other observed lapses. The first one has been that the Yar'Adua government was patronizing some ex public officials accused of corruption by the EFCC, especially former governors, who played key roles in his election. Instead of prosecuting all of them who have been accused of corruption, it appeared the Yar'Adua government was prosecuting some and protecting a few others (notably the former governor of Delta state, James Ibori), by interfering in the work of the anti-corruption agencies. Secondly, President Yar'Adua also presided over the purge and persecution of popular anti-corruption crusaders, especially Nuhu Rubadu, the former chairman of the EFCC. Thirdly, President Yar'Adua was not forceful enough, notably in his speeches, with his anti-corruption program. Thus, even although evidence show that the prosecution of corrupt officials, including several other ex-governors continued under him, these factors combined to limit the popularity

of his anti-corruption campaign. President Yar'Adua's selective and soft or 'gentlemanly approach' to fighting corruption, to quote one leading newspaper columnist⁴⁰, proved to be far less popular with the public, than the harsh and radical style adopted under his predecessor.

What lessons does these offer to the Goodluck Jonathan-led government, and indeed the incoming administration expected after the 2011 elections? The first lesson that should be drawn from the foregoing analysis is that there is need to continuously emphasis the point that the fight against corruption is one of the most important priorities of government as it was under the Obasanjo Presidency. This also means that the President himself must at all times be willing to demonstrate his personal commitment to the struggle but in words and in deeds. Secondly, there is an urgent need to find a way to minimize, if not totally eliminate all forms of open political interference or favoritism in the work of the anti-corruption agencies, while strengthening their operational capacity. The point being made here is

⁴⁰ Interview with Sola Fasure: January 11, 2009. Sola Fasure is political Scientist and member of The Nation Newspaper's editorial board.

that the attempt to protect one single individual, James Ibori in this case, can destroy public confidence in the entire anti-corruption campaign, irrespective of the number of people successfully prosecuted. Happily, as our research confirmed, most of the administrative problems encountered by these agencies (mainly caused by shortage of funds and manpower) in the early stages of their existence have progressively been addressed by the government. What is now left is how to secure the political independence of these agencies vis-à-vis the incumbent government. This can be done, for example by strengthening of the enabling laws of the anti-corruption agencies to make them more autonomous and also by reforming of the judicial system, so that the courts can deliver timely judgments.

It is interesting to note that some reforms that may strengthen these institutions politically and legally are already receiving the attention of some people in the government. A good example is a bill being prepared by the leadership of the Senate Committee on Anti-corruption⁴¹. According to

⁴¹ A personal interview with Senator Akindele took place in his office on November 25, 2008.

information divulged by the Chairman of this committee, Senator Sola Akindele, the proposed bill aims to strengthen the independence of these agencies (especially the EFCC), streamline their functions to minimise jurisdictional conflicts or duplication of functions, and possibly set a threshold, i.e. a fixed amount of money that should have been lost to corruption, before the anti-corruption agencies can intervene in a case. These efforts, which appear to have stalled in recent times due to limited public support, deserve to be supported by critical stake holders, especially donors and civil society.

Assuming that bill on the reform of the anti-corruption agencies finally sails through, one very important area that still remains to be addressed is the role of other complementary institutions in the fight against corruption. This is the third lesson that should be drawn from this study. Indeed, most of the negative publicity attracted by these institutions have stemmed from a misconception or over-exaggeration of the role of these bodies in the fight against corruption. Contrary to the perception being promoted by recent governments in Nigeria, these agencies are supposed to complement, and not replace 'traditional

anti-corruption institutions', notably, the Police, the Parliament at all levels of government, Office of Attorney General and Minister of Justice (at state and federal levels), Office of Accountant General of the Federation, Office of the Auditor General of the Federation, civil society organizations, the ordinary voter and the media. Until this fact is well appreciated in Nigeria, anti-corruption

agencies will continue to be saddled with impossible targets in Nigeria. Until these agencies are strengthened and encouraged to perform their oversight functions, government and politicians will continue to instrumentalise the campaign against corruption.

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