An Assessment of United Nations Convention Against Corruption: Implications for Nigeria

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Abstract- ***The United Nations Convention Against Corruption (hereinafter referred to as UNCAC), is an international instrument for preventing and combatting corrupt practices globally and was adopted by the United Nations General Assembly in October 2003 and entered into force in December 2005. Nigeria, a State Party to the UNCAC signed the treaty on the 9th of December 2003, and ratified it on the 24th of October 2004, even though UNCAC is yet to be domesticated in Nigeria in accordance with the provisions of the Constitution. It is apposite to note however that several pieces of legislation complying with different provisions of the UNCAC have been enacted into law by both the National Assembly and States Houses of Assembly and several implementation structures have been set up in view of such legislation. The UNCAC is unique for its worldwide coverage, the scope of its provisions which includes but is not limited to preventive and punitive measures, its call on civil societies and non - governmental organizations to participate in the accountability process, and most importantly its provisions on international cooperation amongst State Parties by assisting each other in the fight against corruption.***

I. INTRODUCTION

The United Nations Convention Against Corruption (hereinafter referred to as UNCAC), is an international instrument for preventing and combatting corrupt practices globally and was adopted by the United Nations General Assembly in October 2003 and entered into force in December 2005[1]. Nigeria, a State Party to the UNCAC signed the treaty on the 9th of December 2003, and ratified it on the 24th of October 2004, even though UNCAC is yet to be domesticated in Nigeria in accordance with the provisions of the Constitution[2]. It is apposite to note however that several pieces of legislation complying with different provisions of the UNCAC have been enacted into law by both the National Assembly and States Houses of Assembly and several implementation structures have been set up in view of such legislation[3]. The UNCAC is unique for its worldwide coverage, the scope of its provisions which includes but is not limited to preventive and punitive measures, its call on civil societies and non -governmental organizations to participate in the accountability process, and most importantly its provisions on international cooperation amongst State Parties by assisting each other in the fight against corruption.

Over sixteen (16) years after ratifying this instrument, Nigeria yet suffers immensely from corrupt practices. In the Transparency International Corruption Perception Index (CPI) for the year 2019, Nigeria scored 26 out of 100 points, falling below the global average of 43[4]. In the recently released Corruption Perception Index for the year 2020, the Country scored 25 out of100 even below the previous year's score[5]. It is no longer news that the majority of the country's citizenry is caught in the harrowing grips of corruption, a large number of the masses as a resultof massive corruption live in poverty, the World Poverty Clock in June 2018 declared Nigeria as the Poverty Capital of the World with statistics showing about 87 million Nigerians living in abject poverty[6].

No doubt indeed, the Nigerian government over the years has developed policies and established bodies meant to combat corruption, the activities of the Economic and Financial Crimes Commission in hunting down key actors in the corruption scene, particularly cannot go unnoticed. However, with the shocking developments in recent years, as clearly reflected in the reports proffered above, a revisit to the provisions of the UNCAC becomes very much necessary in light of the Nigerian perspective. This is equally important in lieu of the forthcoming first-ever United Nations General Assembly Special Session Against Corruption which is slated to hold in April 2021, the session seeks to "provide an opportunity to shape the global anti-corruption agenda for the next decade – by advancing bold and innovative

approaches, scaling best practices and developing new standards and mechanism"[7] and this research shall be proffering contributions in that regard.

The Convention contains eight (8) chapters and seventy-one (71) articles. This research shall be revisiting the implementation of some of these provisions from the Nigerian perspective in view of the widespread corrupt practices in the country and shall be proffering recommendations for its effective implementation.

The preventive measures provided for in the United Nations Convention Against Corruption particularly as it relates to anti-corruption policies and practices and anti-corruption bodies have been duly implemented by Nigeria. The enactment of the Corrupt Practices and Other Related Offences Act 2000 which establishes the Independent Corrupt Practices Commission and the enactment of the Economic and Financial Crimes Commission Act 2004 which also established the Economic and Financial Crimes Commission amongst other similar bodies attestto the above assertion.

With the alarming rate of corruption and poverty in the country today, however, as can be seen in the index released by Transparency International and the World Poverty Clock, the effectiveness of these anti-corruption policies and bodies is put into question. The present research seeks to revisit the implementation of some of these preventive measures, particularly on anti-corruption policies and bodies, as provided for under the Convention, by the Nigerian government, and further proffer recommendations as to effective anti-corruption measures, inlieu of the provisions of the Convention.

The main aim of the research, therefore, is to revisit the implementation of the preventive measures provided by the Convention as adopted by Nigeria and determine its efficacy.

This study is focused on the assessment of the implementation of the preventive measures provided for in the Convention with the preventive measures provided for under articles 5 and 6 of the Convention, i.e the preventive anti-corruption policies and practices, and preventive anti-corruption body/bodies.

II. LITERATURE REVIEW

- Nature and Meaning of Corruption

Corruption may not be easy to define but according to Tanzi, it is generally not difficult to recognize when observed. Corrupt acts require a minimum of two individuals from one or more communities and either the exchange or the promise of an exchange of money or services take place; typically secret, the pact benefits the dyad to the detriment of everyone else.

The United Nations Convention Against Corruption (2004) recognized corruption as a multi-faceted, dynamic, and flexible phenomenon and therefore did not define, but described corrupt practices. The body identified two types of corruption: grand and petty corruption. Grand corruption is the one that pervades the highest levels of a national government, leading to a broad erosion of confidence in good governance, the rule of law, and economic stability. Petty corruption can involve the exchange of very small amounts of money, the granting of minor favors by those seeking preferential treatment, or the employment of friends and relatives in minor positions. The most critical difference between grand corruption and petty corruption is that the former involves the distortion or corruption of the central functions of government, whereas the latter develops and exists within the context of established governance and social frameworks. The Convention listed different forms of corruption, but the common forms in Nigeria include bribery, embezzlement, theft and fraud, extortion, and abuse of discretion among others. The convention explained the different forms as follows.

Bribery is the bestowing of a benefit to unduly influence an action or decision. It can be initiated by a person who seeks or solicits bribes or by a person who offers and then pays bribes. Bribery is probably the most common form of corruption known. It applies to both the public and private sectors of the economy. Payroll officials may be bribed to participate in abuses such as listing and paying non-existent employees (ghost workers). In Nigeria, for instance, corrupt banking and finance officials are bribed to approve loans that do not meet basic security criteria and cannot later be repaid, causing widespread economic damage to individuals, institutions, and economies. Bribery to avoid criminal liability is common in the

public and private sectors. Employees in the public and private sectors are often bribed to disclose valuable confidential information, undermining national security and disclosing industrial secrets. Insider information is used to trade unfairly in stocks or securities, trade secrets, and other commercially valuable information.[8]

Embezzlement, theft, and fraud all involve the taking or conversion of money, property, or valuable items by an individual who is not entitled to them but, by virtue of his or her position or employment, has access to them. In the case of embezzlement and theft, the property is taken by someone to whom it was entrusted. Fraud however consists of the use of false or misleading information to induce the owner of the property to relinquish it voluntarily. Advance fee fraud is commonly known as 419 in Nigeria, that is, obtaining by false pretense through different fraudulent schemes, for example, contract scams, credit scams, inheritance scams, job scams, lottery scams, wash scams (money washing scams), marriage scam, immigration scam, count or felting, religious scam, and cybercrime. Bank fraud is a type of fraud that occurs in banks and other financial institutions, for example, issuance of dud cheques, fraudulent encashment of negotiable instruments, foreign exchange malpractices, and other financial malpractices in banks and other financial institutions.

Theft, per se, goes far beyond the scope of corruption, including the taking of any property by a person with no right to it. Using the same example of the relief donation, an ordinary bystander who steals aid packages from a truck is committing theft but not corruption. That is why the term embezzlement, which is essentially the theft of property by someone to whom it was entrusted, is commonly used in corruption cases. In some legal definitions, theft is limited to the taking of tangible items, such as property or cash, but non-legal definitions tend to include the taking of anything of value, including intangibles such as valuable information.[9]

Whereas bribery involves the use of payments or other positive incentives, extortion relies on coercion, such as the use or threat of violence or the exposure of damaging information, to induce cooperation. Like other forms of corruption, the victim can be the public interest or individuals adversely affected by a corrupt act or decision. In extortion cases, however, a further victim is created, namely the person who is coerced into cooperation. Although extortion can be committed by government officials or insiders, such officials can also be victims of it. For example, an official can extort corrupt payments in exchange for a favor or a person seeking a favor can extort it from the official by making threats.

In some cases, corruption can involve the abuse of discretion, vested in an individual, for personal gain. For example, an official responsible for government contracting may exercise the discretion to purchase goods or services from a company in which he or she holds a personal interest, or he or she may propose real estate developments that will increase the value of the personal 347property. Such abuse is often associated with bureaucracies where there is broad individual discretion and few oversight or accountability structures, or where decision-making rules are so complex that they neutralize the effectiveness of any accountability structures that do exist.[10]

- Corruption in Nigeria

Lawan[11] posits that there is a paucity of scholarship explaining corruption from a legal perspective, he further justified such assertion when he argued that such paucity is necessitated because the engagement of legal literature with corruption has always been in the ability or inability of legal systems to tackle it. He based his analysis on the effect of corruption on the leakage of public funds, he further argued that the high level of corruption in the country contributed in no small measure to plunging the country into its state of underdevelopment and further concluded that such could be avoided if the legal order would have been respected by the Nigerian governments.

Two things stand out in his submissions, that corruption lacks a universally accepted legal definition, and thatcorruption has plunged the country into its state of underdevelopment.

Ogbu[12] also argues that corruption is a word with so many facets and ramifications that it cannot be easily defined, he further argued that corruption is the bane of Nigerian society and one that works as a clog in the wheels of the realization of fundamental and socio-

economic rights. This position on the definition of corruption is further endorsed even in international instruments such as the United Nations Office on Drugs and Crime whichserve as the secretariat for the implementation of the UNCAC when it submitted that the difficulties encountered in formulating a common definition for corruption are due to legal, criminological and political problems[13]. The researcher agrees with the position taken by this literature on the concept of corruption because even the UNCAC does not define corruption but only lists series that should be criminalized[14].

On Corruption in Nigeria, Akinseye George SAN[15] argued that the phenomenon ofcorruption is caused by a weak legal system and has consequently posed a serious threat to good governance in Nigeria. He further called for the need for an urgent review of the existing anti-corruption provisions, a submission this researcher completely endorses, given the provision of Article 5(3) of the Convention which provides for a periodic evaluation of the relevant legal anti-corruption instruments.

The decision of the court in the case of *Altimate Inv. Ltd V. Castle & Cubicles Ltd*[16] statedin clear terms the need for the Nigerian Society to tackle corruption and rid the society of its ills. The researcher agrees with the reasoning of the court when it held thatcorruption if not checked, threatens order, peace, and good government. The decision of the court in *EFCC V. Fayose& Anor*[17] is equally pertinent, the court in emphasizing theduty of the court in the fight against corruption held vehemently that legal technicalities should not constitute a roadblock in the effort for the fight against corruption. The court submitted that the essence of the law is to protect and preserve the political and social well-being of the state as well as the citizenry, a position the researcher completelyagrees with. The decision of the Supreme Court in the case of *AG Of Ondo State V. AG Of the Federation &*Ors[18] is also instructive, the apex court in pronouncing on the powersof the National Assembly to legislate against corruption and abuse of office rightly held that the National Assembly has such powers, and it even extends to a person, not in authority under public or government office. The researcher agrees with this position, the reasons been it is in tandem with the spirit of the UNCAC, as it applies to both public and private actors.

- The Preventive measures under articles 5 and 6 of the Convention

John Brandolino[19] who is the Director for Treaty Affairs, United Nations Office on Drugs and Crime in this piece commended Nigeria for being the first among 186 countries to sign and ratify the Convention. He further noted the seriousness and commitment of Nigeria to the implementation of the UNCAC and went on to highlight big strides recorded by Nigeria like its call for the creation of a meaningful implementation review mechanism for the Convention to monitor the effective implementation by all States parties.

He also noted its sponsorship of many groundbreaking resolutions adopted by the Conference of States Parties to the Convention to enhance the implementation of Chapter V of the Convention on Asset Recovery and the launching of the 2nd cycle review of corruption in Nigeria, these, according to him, all attest to the efforts of the Nigerian government in making the Convention a tangible anti-corruption instrument. This researcher agrees with the submission of the author of this piece to the extent that it is a one-sided view, that which reflects the Nigerian governments alleged commitment to the implementation of the UNCAC and that the other side of the coin which entails much interference in the activities of the anti-corruption bodies by the government which causes inefficiency is very much present.

The truism of this assertion reflects in the next reviewed work. The researcher further notes that the Education for Justice initiative mentioned by the Director in the piece, which is targeted towards providing tools and materials that can be used by teachers and students alike to strengthenvalue systems, change attitudes, improve the understanding of the dynamics and impact of corruption, and build anti-corruption skills and expertise, is indeed laudable. Even though at this moment the course is still under review and yet to be fully implemented in Nigerian schools. The researcher knows this because he assisted in the review of oneof the modules[20] in the proposed course. The researcher may not be able to critically access the provisions of the proposed course

as it is yet to be implemented, but from whathas been seen so far, it will assist in the enlightenment process. In a document[21] that served as 'Guidance Note for the provision of Information by States Parties for the Fifth inter-sessional meeting of the Working Group on Prevention on 8 to 10 September 2014.' The preventive anti-corruption bodies put in place by the Nigerian government were highlighted to include the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), the Code of Conduct Bureau (CCB), and the Bureau of Public Procurement (BPP). It further includes the Nigerian Extractive Industries Transparency Initiative (NEITI), the Public Complaints Commission, the Office of the Auditor-General of the Federation, and the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR). The mandates and responsibilities of these agencies and their institutional structures and preventive activities were examined in this report. Coordination challengesamongst these different anti-corruption agencies were said to be addressed by the Inter-Agency Task Team [IATT], by surveying anti-corruption initiatives and activities in Nigeria, in a bid to answer who is doing what?

Among the key challenges highlighted by this piece is the over-dependency on the executive for funds by the agencies, and as a consequence, the interference by the executive in the affairs of these agencies. The document further suggested in its recommendations that funding of anti-corruption works should be based on a first-line charge on the Consolidated Revenue of the Federation. This will serve to reduce the dependence on the Executive arm for funding the agencies. While the researcher agrees with the recommendation proffered, he, however, disagrees that this measure if adoptedcan effectively curb away from interference by the executives in the affairs of the agency. The researcher believes that interference in the affairs of the commission by the executivearm does not come in the form of financial control alone, but also the independence of some heads of these agencies is put into question, in a situation where some of the headsare without secured tenures, and subject to arbitrary removal by the executive, the problem of interference is not still solved.

Other significant documents showing the implementation of the preventive measures by Nigeria, reviewed by the researcher are the self-assessment checklist and executive summary[22]. and country review report.[22] They all form parts of the second cycle review process coordinated by the Conference of State Parties Implementation Review Group, at, its First resumed tenth session in Vienna, 2–4 September 2019, which were all accessedby the researcher from the United Nations Office on Drugs and Crime official website on Corruption Country review report[23]. The reports contained a review of the implementation of the preventive measures under chapter 2 and that of asset recovery under chapter 5 bythe Nigerian government so far. In its executive summary particularly, it noted that Nigeria has established several anti-corruption bodies, which include the IndependentCorrupt Practices and Other Related Offences Commission (ICPC) for investigatingcorruption, overseeing public bodies, and educating the public[24],[25]. The Economic andFinancial Crimes Commission (EFCC) is basically for conducting investigations, enforcing laws, and carrying out awareness-raising campaigns against economic andfinancial crimes[26] , and the Code of Conduct Bureau (CCB) for administering the Code of Conduct for public officers including receiving and examining asset declarations[27].

Furthermore, the Nigeria Extractive Industries Transparency Initiative (NEITI) is mandated to develop a framework for transparency and accountability for the extractive industry[28] the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) works as the hub for data, information, policy, and diagnostic reports from conductingstudies and corruption risk assessments (by Presidential Fiat of 27 July 2006). The reportfurther posited that the Nigerian anti-corruption system is complex with a large number of actors and institutions as such the risk of functional overlap is one of thefundamental challenges.

III. METHODOLOGY

This study adopted the doctrinal research method in conducting the present research. The doctrinal research method is centered primarily on the examination of and discussion of legal doctrines,

principles, and propositions, its primary source of data relies largely on extensive analysis of statutes and case laws, while its secondary source of data can be traced to books, journals, commentaries, online sources, and periodicals et cetera. Doctrinal research methodology is further explained as one that focuses heavily upon the law itself as a self-sustaining set of principles that can be accessed through reading court judgments.[29]

The choice of the doctrinal method by the researchers is justified based on the nature of the research topic and the focus of the study which is to revisit the preventive measures under the Convention and proffer recommendations in light of the Nigerian perspective.

IV. DISCUSSION

- Anti-Corruption Preventive Measures

The term 'corruption' is a universal term without a universally accepted definition. Interestingly, even the United Nations Convention Against Corruptions, reviewed in this research and also one of the foremost global anti-corruption instruments did not define corruption. The Convention rather only listed and defined a series of offenses that should be criminalized by State Parties[30].

Uwais CJN (as he then was) captured it succinctly when he described corruption thus in *AG Of Ondo State V. AG Of theFederation & Ors*[31]:

"Corruption is not a disease which afflicts public officers alone but society as a whole." statutory explanation of corruption is given by the Corrupt Practices and Other Related Offences Act when it defined corruption as that which includes bribery, fraud, and other related offenses.[32]

- Types and Forms of Corruption

Corruption manifest in various types and forms. Corruption may be Grand, Petty, Active, Passive, Political, or Systematic[33] Explaining these types of corruption, Ahmed[34] posited that massive corruption occurs when a high-level government official committed acts that distort policies or the central functioning of the state which enables him/her to benefit at the expense of the public good. He described it as the type of corruption which pervades the highest levels of a national government, leading to a broad erosion of confidence in good governance, rule of law, and economic stability. He further explained Petty corruption as the everyday abuse of given power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments, and other agencies. He exemplified a situation where a public official asks or expects money for doing an act that he or she is ordinarily required by law to do, or when a bribe is paid to obtain services that the office is prohibited from providing. Active and Passive corruption according to him reflects the supply and demand side of corruption, like giving and collecting a bribe. He sees Political corruption as the manipulation of policies, institutions, and laws of procedure in the allocation of resources and financing by political decision-makers, who abuse their position to sustain their power and wealth[35]. While Systematic corruption occurs when corruption penetrates the entire society to the point of being accepted as a means of conducting everyday transactions[36].

Other forms of corruption include bribery, fraud, extortion, embezzlement, favoritism, and nepotism[37]. One of the commonest forms among these forms of corruption is embezzlement, which this research understands as a situation where a public official wrongly enriches himself or other persons from public funds.

- The United Nations Convention Against Corruption and its Ratification by Nigeria

The United Nations Convention Against Corruption is one of the global instruments targeted toward combatting corruption. It was adopted by the United Nations General Assembly in October 2003 and entered into force in December 2005[38]. The purposes of the Convention are:

"(a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;

(b) To promote, facilitate and support international cooperation and technical assistance in theprevention of and fight against corruption, including in asset recovery;

(c) To promote integrity, accountability, and proper management of public affairs and public

property."[39]

Nigeria, a State Party to the Convention signed the treaty on the 9th of December 2003 and ratified it on the 24th of October 2004[40]. Even though, the National Assembly is yet to domesticate the Convention and enact it into law, as required in the constitutional provision thus:

"No treaty between the Federation and any other country shall have the force of law to the extentto which any such treaty has been enacted into law by the National Assembly."[41]

It is however strongly submitted that several pieces of legislation complying with different provisions of the Convention have been enacted into law by the National Assembly, by the provisions of the constitution, which states thus:

"The National Assembly may make laws for the Federation or any part thereof concerning matters not included in the Exclusive Legislative List to implement a treaty."[42]

For the avoidance of doubt, instances of that legislation include but are not limited to, the Corrupt Practices and Other Related Offences Act[43], Economic and Financial Crimes Commission Act[44], Code of Conduct Bureau and Tribunal Act[45,] and Nigerian Extractive Industries Transparency Initiative Act.[46]

Anti–Corruption Preventive Measures and what it entails under the Convention

The Convention has eight (8) chapters and seventy–(71) articles and generally provides for the anti-corruption preventive measures in Chapter 2, which in turn contains ten (10) articles. Furthermore, Articles 5 and 6 both specifically provide for preventive measures which is the central focus of this research, to wit, preventive anti-corruption policies and practices, andpreventive anti-corruption bodies respectively.

For the sake of emphasis, reproduced below are the express provisions. Article 5. Preventive anti-corruption policies and practices:

i. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs, and public property, integrity, transparency, and accountability.
ii. Each State Party shall endeavor to establish and promote effective practices aimed at the prevention of corruption.
iii. Each State Party shall endeavor to periodically evaluate relevant legal instruments and administrative measures to determine their adequacy to prevent and fight corruption.
iv. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Article 6. Preventive anti-corruption bodies or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that suchstaff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption[47].

The above provisions explain in clear terms the concept of anti-corruption preventive measures and the obligations of State Parties in that regard.

- United Nations Convention against Corruption

Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of

life, and allows organized crime, terrorism, and other threats to human security to flourish[48].

This evil phenomenon is found in all countries big and small, rich and poor but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services, feeding inequality and injustice, and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development

The adoption of the United Nations Convention against Corruption will send a clear message that the international community is determined to prevent and control corruption. It will warn the corrupt that betrayal of the public trust will no longer be tolerated. And it will reaffirm the importance of core values such as honesty, respect for the rule of law, accountability, and transparency in promoting development and making the world a better place for all[49].

The new Convention is a remarkable achievement, and it complements another landmark instrument, the United Nations Convention against Transnational Organized Crime, which entered into force just a month ago. It is balanced, strong, and pragmatic, and it offers a new framework for effective action and international cooperation.

The Convention introduces a comprehensive set of standards, measures, and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption. It calls for preventive measures and the criminalization of the most prevalent forms of corruption in both the public and private sectors. And it makes a breakthrough by requiring Member States to return assets obtained through corruption to the country from which they were stolen. These provisions the first of their kind introduce a new fundamental principle, as well as a framework for stronger cooperation between States to prevent and detect corruption and to return the proceeds. Corrupt officials will in the future find fewer ways to hide their illicit gains. This is a particularly important issue for many developing countries where corrupt high officials have.

The United Nations Convention against Corruption is the only legally binding universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem.

- The Convention covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. The Convention covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector. A highlight of the Convention is the inclusion of a specific chapter on asset recovery, aimed at returning assets to their rightful owners, including countries from which they had been taken illicitly. The vast majority of United Nations Member States are parties to the Convention.

- Article 5: Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency, and accountability.
2. Each State Party shall endeavor to establish and promote effective practices aimed at the prevention of corruption.
3. Each State Party shall endeavor to periodically evaluate relevant legal instruments and administrative measures to determine their adequacy to prevent and fight corruption.
4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programs and projects aimed at the prevention of corruption.

- Article 6: Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:
(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
(b) Increasing and disseminating knowledge about the prevention of corruption.
2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

- Ugo-Ngadi v. F.R.N.

On Duty on counsel to fast-track hearing and disposal of cases connected to Corruption, and human trafficking. kidnapping and money laundering and how done Counsel, particularly senior counsel, should fast track hearing and disposal of cases connected with Corruption, human trafficking, kidnapping, and money laundering by avoiding the temptation of filing interlocutory appeals that have the undesired effect of delaying the quick disposal of such cases. In the instant case, if counsel felt strongly that the evidence adduced was not sufficient to ground a conviction, they had an option of resting their case on that of the prosecution instead of going the whole gamut of contesting the refusal of the trial court to uphold a no-case submission up to the Supreme Court, the constitutional guarantee of the right of appeal notwithstanding. (P. 60, paras. A-C)[50]

- Ehindero v. F.R.N.

On Validity of criminal prosecution under the ICPC Act not initiated by the Attorney General of the Federation -The provisions of sections 6(a) and 61(1) of the Corrupt Practices and Other Related Offences Act. 2000, validate a criminal prosecution under the Act undertaken by the Independent Corrupt Practices and Other Related Offenses Commission(ICPC), where the prosecution was not initiated by the Attorney-General of the Federation himself nor after he had physically delegated his authority to the ICPC. (P. 313, paras. F-G)12. On Power of the Chief Judge of a State or the Federal Capital Territory to designate a court or Judge to hear cases under the Corrupt Practices and Other Related Offences Act, 2000 -.By the provision of section 61(3) of the Corrupt Practices and Other Related Offences Act, 2000, the Chief Judge of a State or the Federal Capital Territory, Abuja shall, by order under his hand, designate a court or Judge or such member of courts or Judges as he shall deem appropriate to hear and determine all cases of bribery, Corruption, fraud or other related offenses arising under the Act or any other laws[51]

- Tumsah v. FRN

On Need to follow due process in prosecution of Corruption cases - Per IYIZOBA, J.C.A. at page 273, paras. D-E: "Corruption no doubt is the bane of our society, and the courts would not want to be seen as hindering the efforts of the Government in its attempts to bring corrupt officials to book. The learned trial judge was thus so determined to grant the orders that he paid no heed to the sound arguments of the appellant's counsel that the Special Presidential Panel of Enquiry had no power to approach the court, the High Court of the Federal Capital Territory for forfeiture of the properties. More so when the ex parte application was pursuant to the provisions of the FCC Act and the Money Laundering (Prohibition) Act, completely separate legislations which conferred no powers to the Special Presidential Panel of Enquiry to act the way it did. Due process must be followed in these Corruption cases and indeed in all other matters.'

- Maideribe v. F.R.N.

On Exclusive jurisdiction of Federal High Court over matters of abuse of office in relation to agency of Federal Government -The Federal High Court has

jurisdiction to the exclusion of other courts in matters concerning alleged abuse of office by a Director of the Nigerian Ports Authority, which is a Federal Government agency, as in this case. (P. 98, para.B)I0. NOTABLE PRONOUNCEMENT: On Duty on Judges to determine Corruption cases on basis of evidence and not on public sentiments -Per AKA'AHS, J.S.C. at pages 99-100, paras. G-A: "There was a suggestion made by learned counsel for the respondent that the action taken was meant to stem Corruption. I am inclined to agree with the submission made by learned senior counsel for the 1st appellant in SC.180/2012 that this is an instance where suspicion was elevated to the rank of proof and what militated against the appellant and his co-accused was that they were men of rank and position who held high office at a time when men and women like that had come under the suspicion of Corruption and whether proven or not they had to be convicted to serve as a lesson to others. I am afraid that is not the best way to tackle Corruption. Due process must be followed to establish the guilt of an accused. The prosecution should not ride rough- shod of the Constitution and it is the sacred duty of the Judges not to bow to public sentiments in finding an accused person guilty. After all, we operate the accusatorial system of jurisprudence where an accused is presumed innocent until he is proven guilty.

- Appraisal of Nigerian Independent Corrupt Practices and Other Related Offences Commission (ICPC)

Studies reveal that the ICPC is ineffective in fighting corruption in Nigeria. Also, the scorecard of the agency is very negative (-) in fighting corruption during the period of study. Besides, the rating by Transparency Internal (TI) shows that corruption has not been reduced in the Nigerian body polity.[52]

Corruption is a global problem. It is the greatest enemy a country has on the globe. It constitutes threats to good governance, security of lives and properties, and the social amenities of the state. Being a global issue, corruption has attracted the attention of various international organizations and the world bodies such as the United Nations (UN), Transparency International (TI), Business International (BI) and the Bribe Takers Index (BTI) have concerned themselves with the problem of corruption in the world. These organizations have one time or another other measured the level of corruption not only in one country but 354on the globe. It is imperative to measure the level of corruption globally to know the necessary action needed to check the problem. Corruption has affected most countries of the world. The rationale behind anti-corruption czar begins with the worrisome fact that despite the endowment of Nigeria with abundant natural resources, corruption has affected the Nigerian state so much that the majority still live below the poverty bracket (< $1 per day). The indices of corruption are monumental and rife across Nigeria. These include; decadent social and physical infrastructure, widespread unemployment, deficient health facilities and services as well as epileptic water, power, and communication services offered to the people.[53]

Against this background, President Obasanjo in the year 1999 presented an Anti-corruption Bill to the National Assembly to fight corruption. The Bill duly passed and assented to, and transformed into the Corrupt Practices and Other Related Offences Act 2000. This Act gave birth to Independent Corrupt Practices and Other Related Offences Commission (ICPC) on September 29, 2000.

The ICPC has been in existence for more than 10 years; therefore, it needs to be appraised to determine its effectiveness and efficiency in terms of fighting corruption in Nigeria. This is because the ICPC seems to have made little or no meaningful impact on the incidence of corruption in Nigeria.[54]

Corruption lacks a universally accepted definition. However, in a serious academic exercise, the definition of key concepts helps to situate and clarify the discussions and understanding of the issue.

Bribery is a dimension of corruption and is not the only reason for the abuse of office. An official may abuse his office for financial gain or power and prestige within the community. Nepotism about appointment, promotion or favor, or award of contracts to kinsmen may serve to promote the status of an official within his community.[55]

- An Appraisal of the Performance of the Economic and Financial Crimes Commission in Nigeria

Widespread corruption remains a symptom of a poorly functioning state, as witnessed in most developing countries such as Nigeria. Indeed, those who give and receive bribes can expropriate a nation's wealth, leaving little for its poorest citizens. Highly corrupt countries face particular challenges, even when controlled by reform-minded rulers. Reforming public institutions and government policies is essential, but poverty limits the available options. Policy-makers however can arrive at plausible solutions only after understanding the effects of corruption on the efficiency and equity of an economic system.[56]

Investigation into corruption in public life in Nigeria began in the 1950s when the first panel of enquiry was set up to look into the affairs of the African Continental Bank (ACB). Charges were leveled against a highly revered politician who had abused his office by allowing public funds to be invested in the bank in which he had an interest. The allegation proved to be a big scandal, a tour de force that led to the institution of the Justice Strafford Forster-Sutton Commission of enquiry on July 24, 1956, to investigate the matter. The subsequent indictment of the politician in the commission's report (as of January 6, 1957) led him to transfer all his rights and interests in the bank to the Eastern Nigeria Government. [57]

Moreover, in 1962 another strong political personality from Western Nigeria was dragged to the court of accountability. This led to a call for an investigation of the relationship between the erstwhile politician (then the premier of Western Nigeria) and the National Investment and Property Company, a private enterprise said to be indebted to the Western Nigeria Government to the tune of £7,200.00. On June 20, 1962, the Federal Government appointed a commission to investigate the allegations, and later the commission indicted the said politician in its report. Consequently, the Western Nigeria Government acquired all the property owned by the National Investment and Property Company. In 1967, another commission of enquiry was instituted to investigate the assets of 15 public officers in the defunct midwestern region. After the panel's report, all the public officers were indicted for corruptly enriching themselves. The panel recommended that they forfeit their ill-gotten wealth to the government. Corruption was one of the reasons adduced for the military takeover of power by Major Kaduna Nzeogwu and colleagues in 1966. The history of corruption in Nigeria is strongly rooted in the more than 29 years of military rule in the 46 years of its statehood since 1960. Successive military regimes subdued the rule of law, facilitated the wanton looting of the public treasury, decapitated public institutions, and free speech, and instituted a secret and opaque culture in the running of government business. The period of the military regime was worse in terms of corruption. It became the sole guiding principle for running the affairs of the state. The period witnessed a total reversal and destruction of every good thing in the country.[58]

- Appraisal of the EFCC

Since the EFCC began its anti-corruption crusade in 2002, there have been divergent views on the quality of performance of the anti-graft body. Although some sections of the Nigerian populace believe that the EFCC has succeeded in its fight against corruption by not only arresting and investigating but also arraigning corrupt public servants, politicians, and private individuals in court, others feel that the EFCC has not performed up to expectations. Most of these individuals had hitherto been considered untouchables because of their connections to the government in power. They stated further that the EFCC has helped to redeem the image of Nigeria in the world. Contrary to this view, Lewis, Alemika, and Bratton (2002) stated that Nigeria's corruption-prone image is significantly worse internationally than domestically. Other Nigerians however believe that the EFCC activities were politically influenced. They claimed that most of the achievements credited to the EFCC through local and foreign media were mere propaganda. Kew (2006) and Adeyemo (2006) observed that the rules were not observed by the leaders except when applied to frustrate the opposition. This view is supported by recent revelations in the ongoing probes, especially the N1.3 trillion power and the aviation probes, which are strong indications that the last civilian regime (1998-2006), which claimed zero tolerance to corruption, may not after all be free from corruption. The Nigeria Port Authority (NPA) probe report submitted in 2004

indicting close allies of the past civilian administration was an exception.

Most studies carried out on corruption in Nigeria are descriptive reports owing to a lack of data. Only a few cases of bribers and corrupt officials are reported to the authority (Adeyemo, 2006). This study is an attempt to empirically analyze the performance of EFCC bearing in mind the divergent views of Nigerians as well as the colossal number of resources that have been expended on the organization by the Nigerian government and the donor countries. This study is being carried out not minding the problems associated with data on corruption.[356]

- Past and Present Anti-Corruption Efforts

Successive governments in Nigeria have put in place several anti-corruption measures and strategies, such as the Ethical Re-Orientation Campaign of Shagari's Second Republic, War Against Indiscipline (WAI) of the Buhari Idiagbon regime, and Babangida's Committee on Corruption and Other Economic Crimes and the War Against Corruption. Other efforts include setting up probe panels, commissions of enquiry, and tribunals (e.g., the Failed Bank Tribunal) to try corrupt individuals. Bye-laws such as the Money Laundering Act of 2003, Advance Fee Fraud and Fraud Related Offences Act of 1995, Foreign Exchange Act of 1995, and Corrupt Practices and Other Related Offences Act of 2000 were also enacted to back-probe panels and tribunals. These measures are facades of genuine measures to promote good governance through the eradication of corrupt practices.[59]

However, the overall system remains deeply compromised. Federal government contracts are routinely inflated to provide kickbacks for officeholders, and contractors frequently provide substandard or nonexistent services. State- and local-level corruption have been far more brazen. The rules were not observed by the leaders except when applied to frustrate the opposition. The deeper motives for introducing these measures were rarely nationalistic; they were primarily motivated by self-interest for the acquisition of wealth and power. The fallout of the hypocritical postures toward corrupt practices has been a ceaseless cycle of political and legitimacy crises. Citizens expressed their discontentment against irresponsible governance and invariably lost their faith in the system. This situation gained wider currency in the Niger Delta region, where oil exploration had further impoverished the people. The yearly ranking of Nigeria by Transparency International among the bottom five nations in its annual Corruption Perceptions Index (CPI) since 1995 is an indication of the poor performance of past anti-corruption efforts. The failure of these past efforts led to the establishment of the Economic and Financial Crimes Commission (EFCC) in 2003 to complement the Zero Tolerance Campaign of the Obasanjo Administration. The anti-graft body was established by the Economic and Financial Crimes Commission Establishment Act (2004). The Act mandates the EFCC to combat financial and economic crimes. The Commission is empowered to investigate, prosecute, and penalize economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes, including the Economic and Financial Crimes Commission Establishment Act (2004), the Money Laundering Act 1995, the Money Laundering (Prohibition) Act 2004, the Advance Fee Fraud and Other Fraud Related Offences Act 1995, the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994, the Banks and Other Financial Institutions Act 1991, and Miscellaneous Offences Act.[60]

According to Ribadu (2006b), the EFCC has achieved the following since its establishment in 2003:

i. Cleansing of the banking sub-sector
ii. Reorganization of critical agencies of government
iii. Prosecution and conviction of corrupt top public officers
iv. Record convictions for 419, Money Laundering, and Terrorism
v. Recovery and return of proceeds of crime
vi. Setting up the Financial Intelligence Unit (FIU) and taking action against terrorist financing
vii. Setting up the machinery for monitoring activities in the oil industry and prevention of illegal bunkering
viii. Partnership with Microsoft against Internet scams and identity theft
ix. Capacity building for law enforcement and judicial officials

CONCLUSION AND RECOMMENDATIONS

This research is on reviewing the provisions of Articles 5 and 6 of the United Nations Convention Against Corruption with implications for Nigerians. The study focused on the existing measures adopted by the Nigerian government to ascertain their effectiveness asanti-corruption preventive measures as envisaged under the relevant provisions of Chapter 2 of the Convention.

It was found that on the preventive anti-corruption measures put in place by the Nigerian government, the reports made from the second cycle review of the implementation of the preventive measures under Chapter 2 of the Convention are relevant. The report was made in the Conference of State Parties to the Convention, in its tenth session in September 2019 at Vienna, which was discussed in this research, to reflect the latest review. The study admits that the reports contain plausible findings and laudable recommendations as to the independence and security of tenure for the heads of some of the agencies like the EFCC that do not have one.

In conclusion, this research reviewed thus far the Nigerian perspective in the implementation of Articles 5 and 6 of the United Nations Convention Against Corruption. The research looked at the various extant definitions of corruption and adopted that of the Transparency[122] Report of the 1994/1995 Constitutional Conference, 110. International. The research after looking at the various types and forms of corruption noted the terrible state of corruption in Nigeria and went on to submit that the domestication argument marshaled against the Convention would fail in light of the several legislations enacted in the implementation of the provisions of the Convention. The research went on to look at the legal and institutional framework put in place by the Nigerian government in line with its obligations as a State Party to the Convention.

From the findings of this study, it is apposite that recommendations targeted to put an end to these disturbing developments be proffered. In this light, this research makes the following recommendations:

1. The provisions of Articles 5 and 6 of the Convention vest the State with the responsibility of developing anti-corruption policies and establishing anti-corruption bodies. Thesebodies are in turn expressly empowered by law to investigate and prosecute corruption cases to the exclusion of any other person or body. It is not in doubt that this existing status quo is not providing the desired results, as cases of corruption seem to be on the rise in the country. This research therefore strongly recommends a 'Right to Eradicate Corruption' clause duly provided for in the Convention. This Right, if provided for, will vest an aggrieved citizen with the requisite locus standi to initiate anti-corruption proceedings against any person or body accused of corrupt practices. A similar Right was provided for in the Nigerian Draft Constitution 1995,[122]but for some reason, it was not incorporated into the 1999 Constitution.
2. The overall implementation of the National Anti-corruption Strategy, which was discussed earlier in this work, is vested in the President, to be assisted by the Attorney General of the Federation. This research recommends that civil society organizations involved in anti-corruption fights be given increased recognition and participation in National Anti-Corruption policies such as the National Anti-Corruption Strategy. This will enhance more effective monitoring and evaluation of anti-corruption policies and practices. As a strategy that also seeks to address the overlapping mandates of the various anti-corruption agencies, the effective monitoring, and evaluation of the strategy will also ensure inter-agency cooperation and collaboration.
3. It is not in doubt that the Nigerian government over the years has put in place many anti-corruption measures. One factor inhibiting the success and efficiency of these measures is the lack of “political will” on the side of the government. This research strongly recommends more political will on the part of the government, if it is to be takenseriously in its fight against corruption.

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