

CONTEXTUALISING CORRUPTION IN ANTI-CORRUPTION: THE PERSPECTIVES OF THE INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION (ICPC), NIGERIA

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ABSTRACT: *Nigeria is notorious for corruption. Almost in equal measure, the country has several anti-corruption agencies established to control corruption. Over the two decades, several studies have been conducted on the comparative operational performance of these anti-corruption institutions particularly on the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and Economic and Financial Crimes Commission (EFCC). However, what is usually not clarified or justified in these studies are the criteria upon which such comparative analyses are based. In our study conducted by ethnography, we reviewed the operational activities of the ICPC mainly by participant-observation, document analysis and interviews. We found that the ICPC contextualises Nigeria's corruption as being ubiquitous, financial, and non-financial in nature, and that corruption thrives on opacity in public administration and governance. We argued that the institutional perspectives of each anti-corruption agencies are critical to any informed analysis that would produce seminal findings on the comparative performances of Nigeria's anti-corruption agencies and that research practices on comparative studies of Nigeria's anti-corruption agencies should change. We therefore recommend complementary studies on the EFCC's institutional perspectives on Nigeria's corruption.*

KEYWORDS: corruption, anti-corruption, comparative studies, ethnography

INTRODUCTION

Nigeria is notorious for corruption (Obasanjo, 2003; Enweremadu, 2006, p. 46; Folarin, 2009, p. 14; Bamidele, Olaniyan, & Ayodele, 2015, p. 71; Agbiboa, 2013, p. 326; Ojo, 2016, p. 1; Ocheje, 2018, p. 363)². Almost in equal measure however, the country has a long history of anti-corruption campaigns, not least since its return to democratic governance in 1999 (Akhigbe, 2011; Agbiboa, 2012; Enweremadu, 2012; Bamidele et al, 2015; Bourne, 2015; Oni, 2020, pp. 34 - 68). The creation of multiple anti-corruption agencies (ACAs) to champion the anti-corruption programmes and policies in Nigeria's Fourth Republic consequently created a

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² Transparency International (TI) ranked Nigeria as the most corrupt country in the world in 1996, 1997 and again in 1999, just a few weeks before the election of President Obasanjo (Agbiboa, 2013, p.330; Enweremadu, 2012, p.1).

competitive operational environment where various anti-corruption agencies struggle to enforce overlapping mandates with similar enabling statutes (Albert and Okoli, 2016, p.743)³.

Under this prevailing environment, it has become prevalent for these anti-corruption agencies to be assessed relative to one another on criteria that are neither usually clear nor justifiable (see for example: Folarin, 2009, p.24; Awopeju, 2015, p.63). Nevertheless, what is not always contextualised by the assessors (academic researchers and other Nigerians in their various capacities) in this debate is the nature of what constitutes corruption in Nigeria. Corruption, a generally fluid term in academic discourse is even more indeterminate in the socio-political context of Nigeria.

Smith 2007 (p.35) notes:

When Nigerians talk about corruption, they refer not only to the abuse of state offices for some kind of private gain but also to a whole range of social behaviours in which various forms of morally questionable deception enable the achievement of wealth, power, or prestige as well as much more mundane ambitions. Nigerian notions of corruption encompass everything from government bribery and graft, rigged elections, and fraudulent business deals, to the diabolical abuse of occult powers, medical quackery, cheating in school, and even deceiving a lover.

Notwithstanding the citizens' disenchantment with the burdens of corruption, this 'expanded' social contextualisation of corruption amongst Nigerians has created some gaps of unfulfilled expectations in their assessment of the performance of Nigeria's anti-corruption agencies, or even the governments generally. It is a well-established fact in the literature that in assessing ACAs, citizens generally have higher expectations of repressive anti-corruption enforcement activities in terms of the frequencies and occurrence of arrests, investigations, and prosecution of alleged corruption individuals by the anti-corruption agencies relative to other operational areas such as corruption prevention, for example (Bautista-Beauchesne, 2021, p.301; Ribadu, 2010, p.25). Whenever corruption enforcement activities are observed to be lower than citizens' anticipations, there is tendency for the overall architecture of governance and anti-corruption programmes, more specifically, to be discussed in negative tones.

In the case of Nigeria, there is always an assumed ground for the operations of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC), in particular, to be compared with each other. Even though these comparisons mostly disregard the relative statutory powers, operational resources, and the mandates of these institutions vis-à-vis their respective institutional perspectives on corruption and how to pursue their statutory mandates without compromising their missions; the EFCC is always disproportionately rated as the more effective institution in tackling corruption in Nigeria far and above the ICPC (Arowolo, 2006; Adebawo and Obadare, 2011, p.192). This simplistic approach to the assessment of the ACAs in Nigeria certainly needs to be reviewed and improved upon.

This paper answers one basic research question: what is the perspective of the ICPC on corruption in anti-corruption in Nigeria? To answer the question, we review briefly the literature on the definition of corruption, particularly within the Nigerian context and more

³ The Independent Corrupt Practices and Other Related Offences Commission (ICPC) was created in the year 2000 through the enactment of the ICPC Act 2000 hereafter referred to as the ICPC Act. A few years later, in 2003, the Economic and Financial Crimes Commission (EFCC) was created with the passage of the Economic and Financial Crimes Act 2003.

importantly, as part of a PhD research on the survival of the ICPC within the Nigerian anti-corruption architecture, we conduct a participant-observation of the daily operational activities of the ICPC to study and understand what they do and how the Commission contextualises corruption in its anti-corruption mandate rather than what the enabling law prescribes that it should do.

This research contributes significantly to the unending debates on the assessment of the ACAs in Nigeria particularly the comparisons between the operations of the ICPC and the EFCC. The study advances the need for the assessors to be wary of the relevant key issues that could guide any objective assessment or comparison of the relative effectiveness of the ICPC and the EFCC. These issues provide better context and the backgrounds required for a more informed analysis. They include the relevant laws establishing the respective agency, the mandate of each agency, the financial and political resources available for deployment by each of the agencies and the perspective of each agency on the meaning of corruption in their anti-corruption tasks.

As far as we know, this is the first study to emphasise the significance of the institutional perspective of the ACAs on corruption in the anti-corruption policies and practices, as a key point to the understanding of the operations of any anti-corruption agency. Moreover, instead of relying on secondary data to analyse and compare the relative performances of the ACAs like other researchers, we employ ethnography through participant-observation and interviews to gather primary data for our analysis. This provides the opportunity for first-hand observation of operational practices, and for asking of issue-based questions that further enrich the understanding of the research data.

The rest of this paper is organised as follows. In sub-section 1.1, we discuss briefly the ICPC as an anti-corruption agency with primary focus on its mandate. In section two, we review the extant literature on the definition of corruption to contextualise the Nigeria's experience. Section three discusses the methodology of the research. In section four, we analyse the ICPC's perspectives on Nigeria's corruption within its statutory powers and operational practices. Section five discusses the implications of our findings to research and practice. In section six we summarize the research and section seven underscores areas of future research to complement our study.

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

To give credence to one of his campaign manifestos, on 13 July 1999, barely six weeks after his inauguration, President Obasanjo sent the Corrupt Practices and Other Related Offences (COPOR) Bill to the National Assembly for consideration and passage into law (Enweremadu, 2012, p. 16). The bill was intended to give legal backing to the establishment of an independent anti-corruption agency – The Independent Corrupt Practices and Other Related Offences Commission (ICPC) – to be charged with the mandate to coordinate the war against all forms of corruption in the Nigeria's public and private sectors.

After much deliberation and amendments to certain clauses of the bill, such as its provisions for executive immunity and its powers to effect searches and seizures of properties, it was eventually passed on 13 June 2000 by both houses of the National Assembly, and signed by President Obasanjo on the same day, thereby completing the preliminary steps for the establishment of the ICPC. On 21 September 2000, the ICPC was formally inaugurated under its first chairman Justice Mustapha Akanbi, a former judge who had then recently retired as

President of Nigeria Court of Appeal. The ICPC thus became the first post-1999 fully institutionalised independent anti-corruption agency in Nigeria⁴.

However, contrary to the initial expectation that the Commission would be established to tackle corruption in all its ramifications in Nigeria, the ICPC by its enabling act, was created to fight public corruption.⁵ In fact, from its published law reports, most of its cases in courts faced preliminary objections from the accused (defendants) on the grounds of whether or not the accused were *public* officials in their positions at the time they committed the alleged offences for which they were being prosecuted (ICPCLR, 2013, Vol. 1, pp. 50 - 51). This exclusive focus of ICPC on public corruption is central to the understanding of its institutional perspective on corruption and anti-corruption activities in Nigeria.

Nevertheless, as a departure from the previous anti-corruption institutions in Nigeria, the ICPC is modelled after successful independent anti-corruption agencies founded elsewhere, such as the Corrupt Practices Investigation Bureau (CPIB) in Singapore (1952) and the Independent Commission Against Corruption (ICAC) in Hong Kong (1974) (Klitgaard , 1988; Enweremadu, 2012, p. 15; Wanjala, 2012, p. 6). The ICPC has the mandate to prohibit and prescribe punishment for corrupt practices and other related offences. Section 6 (a-f) of the ICPC Act specifies the Commission's mandate as follows:

- (a) to receive and investigate complaints from members of the public on allegations of corrupt practices and in appropriate cases prosecute the offenders;
- (b) to examine the practices, systems and procedures of public bodies and where such systems aid corruption, to direct and supervise their review;
- (c) to instruct, advise and assist any officer, agency, or parastatal on ways by which fraud or corruption may be eliminated or minimized by them;
- (d) to advise heads of public bodies of any changes in practice, systems or procedures compatible with the effective discharge of the duties of public bodies to reduce the likelihood or incidence of bribery, corruption and related offences;
- (e) to educate the public on and against bribery, corruption and related offences;
- (f) to enlist and foster public support in combating corruption. (FRN, 2000).

To carry out the mandate, the ICPC Act explicitly outlines the powers of the officers of the Commission to include the following: the powers of investigation and prosecution (Section 5[1]), the powers to review and restructure the operational mechanisms of public institutions with a view to reducing or preventing corruption (Sections 6 [b, c, & d]), the powers to educate and enlighten the public against corruption (Sections 6 [e & f]), and others such as powers to forcefully enter and search private properties upon securing a court warrant; to seize movable and immovable properties of an accused person that is undergoing trial; to take custody of seized properties; to forfeit properties of convicted persons if the court has ruled in favour of the Commission; and to seize the travel document of an accused person under trial in cases of risk of evasion, respectively (Sections [36, 37, 38, 47 & 50]). In addition, the Commission can

⁴ There were some institutional agencies that predated the ICPC, including the Public Complaints Commission, the Code of Conduct Bureau and Tribunal. Whereas, the Public Complaints Commission lacks the prosecutorial powers, the activities of the Code of Conduct Bureau and Tribunal were largely suppressed under the successive military governments leading up to 1999 (Akhigbe, 2011, p. 236).

⁵ Preparatory to the establishment of the ICPC in 2000, President Obasanjo had strongly opined that the weak governance structures in Nigeria were traceable to public-sector corruption, and that instituting public-sector accountability through institutional reforms and campaigns against corruption would address the trajectory of national integrity (see Obasanjo, 2003). This was the main reason while the ICPC mandate focused primarily on the fight against corrupt practices by public officials.

engage the service of the INTERPOL to trace properties or detect cross-border crimes (Section 66[3]).

The ICPC Act guarantees the autonomy of its operations in some respects. First, the appointment into the chairmanship and governing board positions recognised some parliamentary safeguards to ensure security of tenure of office. For instance, Section 3 (8) of the ICPC Act stipulates that the Chairman and the members of the management team of the Commission can only be removed from office by the President on grounds of inability to perform their duties (whether arising from the infirmity of mind or body or any other cause) or for misconduct, after the 2/3 majority of the Senate has approved such request. Section 3 (14) explicitly provides that “the Commission shall in the discharge of its functions under this Act, not be subject to the direction or control of any other person or authority”.

Nominally, the ICPC prosecutes alleged offenders in the name of the Attorney-General of the Federation (AGF) without necessarily seeking approvals for doing so. However, there are certain cases that the office of the AGF could require the ICPC to seek approval before filing them in the law courts. How each of these potential operational controls affects and shapes the institutional strategies of the ICPC forms part of its experiences and ultimately its approaches to anti-corruption interventions in Nigeria’s socio-political landscape.

LITERATURE REVIEW

Defining Corruption: The Nigerian Context

There are many definitions of corruption. This is because the term ‘corruption’ is intelligible only within the context in which it is defined be it economic, political, social, legal, historical, or cultural.⁶ However, in most academic discourses, the modern Weberian sense of the term is dominant: corruption is defined as the abuse of public office for private gains (World Bank, 1997, p.8). Still in the same tradition, Transparency International (TI) defines corruption as “abuse of entrusted power for private gain (TI, 2006, p.25).⁷

In this paper, our aim is not to attempt an exhaustive review of the literature on the definitions of corruption but to contextualise it in the Nigerian socio-political space as the foundation for the legal framework within which ACAs in Nigeria are expected to operate. In the strict sense of public office – private realm delimitation, corruption became an official label with the advent of colonial administration in Nigeria (Pierce, 2016). However, since the post-independence era, various scholars and researchers have theorized the changing narratives about official corruption in Nigeria as it gradually emerged as the cog in the wheel of Nigeria’s development even before the era of corruption eruption⁸

⁶ International treaties and conventions such as the United Nations Convention Against Corruption recognize the jurisdictional differences in legal perspectives on corruption and therefore avoid any discrete definition. However, they establish various forms of corrupt offences to tackle the problem of corruption. These include bribery, extortion, facilitation payment, collusion, fraud, obstruction of justice, embezzlement, misappropriation, or other diversions of property by a public official, trading influence, abuse of function, illicit enrichment and money laundering. (See: <https://www.unodc.org/unodc/en/treaties/CAC/>. Visited on 27/12/2018)

⁷ TI proposes that corruption could be classified as grand, petty, and political, depending on the amounts of money lost and the sector where it occurs. (See <https://www.transparency.org/what-is-corruption#define>)

⁸ Corruption eruption” is the general term that is used to denote the rise in the 1990s of the public's perception of corruption as a result of increasing openness that accompanied democratic transition, and from the changes in the nature of corruption, which, in many cases, make violations more visible. It also stems from the increasing awareness created of the negative effects of corruption on development within international development discourses in both academia and the media.

Andreski (1968), cognizant of the history of the colonial states in Africa which he describes as “something very recent and artificial” (p.92), opines that what [the practices] he observed in Nigeria’s First Republic (1960 – 1966) cannot be termed as corruption but venality as they do not imply a fall from a previously attained higher standard. Nevertheless, the author contends that Nigeria represents the closest approximation to an ‘ideal-type’ of *kleptocracy* – a system of government that consists precisely of the practice of selling what the law forbids to sell: appointments, diplomas, government contracts, public employees’ time and so on; and so long as venality persists, money reigns supreme” (Ibid. p.194). It was no surprise that public disenchantment with these observed dysfunctions in public service delivery eventually led to the first bloody military coup in which the major political leaders were killed on 15th January 1966.⁹

Ekeh (1975) theorizes the lack of clear delimitation between the public office and private realm within the Nigerian polity in his seminal paper titled ‘the theory of two publics’. Ekeh’s theory expounds that Africa’s (Nigeria’s) colonial experience created two publics in lieu of one that defined social order in the West. Ekeh argues that the spate of corruption that was ravaging Nigeria could be explained by deconstructing the ethical foundations of citizens’ behaviours within the society; particularly, the moral imperatives of navigating the private realm and the two publics - the primordial and the civic publics.

The primordial public is closely identified with primordial groupings, sentiments, and activities, which nevertheless impinge on the public interest. The primordial public is moral and operates on the same moral imperatives as the private realm. On the other hand, the civic public is a creation of the colonial administration in the form of the state itself and its apparatuses of public administration namely the bureaucracy, the military, the police, etc (Op cit., p. 92). It is the realm of popular politics and public administration. The chief characteristic of the civic public is that it operates on no moral linkages with the private realm. It is amoral and lacks the generalized moral imperatives operative in the private realm and in the primordial public (Op cit., p.92). The locus of corruption in Ekeh’s analysis lies in the dialectical relationships between the primordial and civic publics in which the ethics and rules of the civic public are violated through the theft of civic public’s resources, funnelled to the private realm and the primordial public without any social condemnation or repercussion. Meanwhile, the ethics of the primordial public is rarely violated. Ekeh (Op cit., p.108) summarises his thesis as follows:

A good citizen of the primordial public gives out and ask for nothing in return, a lucky citizen of the civic public gains from the civic but enjoys escaping giving anything in return whenever he can. But such a lucky man would not be a good man were he to channel all his lucky gains to his private purse. He will only continue to be a good man if he channels part of the largesse from the civic public to the primordial public. That is the logic of the dialectics. The unwritten law of the dialectics is that it is legitimate to rob the civic public in order to strengthen the primordial public.

The military government was in power from 1966 to 1979 when the Second Republic was ushered in. Corruption in Nigeria’s Second Republic (1979 – 1983) was characterised with what Joseph (1987) theorized as Prebendalism. Prebendalism implies the prominence ascribed to the “struggle to control and exploit the *offices* of the state” (Joseph, 1987:1, italics from source). The centrality of the state in the economy and in providing access to material goods,

⁹ For further details on the factors that led to the January 1966 coup in Nigeria, see Ademoyega (1981).

wealth and power makes it attractive for competitive Zero-sum game politics in which the winners take the exclusive rights to exploit the state office(s). Under prebendalism, the state becomes a resource in itself (see Szeftel, 1983, for example). Theorizing further, Joseph (Ibid, p.67) notes that:

a prebendal system will be seen not only as one in which the offices of the state are allocated and then exploited as benefices by the office-holders but also as one where such a practice is legitimated by a set of political norms according to which the appropriation of such offices is not just an act of individual greed or ambition but concurrently the satisfaction of the short-term objectives of a subset of the general population.

The enduring power of prebendalism rests on its legitimate integration into the structure of power and politics in Nigeria as *federal character and zoning* (Adamolekun, 1985, p. 34; Pierce 2016, p. 136, Othman, 1984, p. 445)¹⁰. Nevertheless, the tendency of officeholders to abuse powers for private gains has a sub-optimal outcome for the polity. The scourge of prebendalism would later be cited as *squandermania* by the leaders of the coup that ousted the civilian in December 1983 (Othman, 1984, p. 1).

Nigeria's return to military rule in 1983 lasted until May 29th, 1999. During the nearly two decades under these dictatorships and against the background of the global shift of focus to corruption beginning from the late 1980s, many scholars described Nigeria's corruption in various terms with the consensus being that it is responsible for the tragedy of underdevelopment of Nigeria (Osoba, 1996; Ogundiya, 2009; Adebani and Obadare, 2011; Agbiboa, 2013). For example, Lewis (1996) averred that under the Babangida regime (1985 – 1993), Nigeria transited from prebendalism to predation as the military leader typically personalised the Nigerian state. General Sani Abacha (1993 -1998) was once rated as the fourth most corrupt ruler in global history (Das, 2018, p.57).

For Osoba (1996, p.372), corruption in Nigeria is a kind of social virus which is a hybrid of traits of fraudulent anti-social behaviour derived from British colonial rule and those derived from, and nurtured in the indigenous Nigerian context. This assertion corroborates Ekeh's (1975, pp. 102 – 103) thesis that the Nigerian's amoral resistance to rules of "colonial" civic public formed the foundation of corruption in Nigeria. On the scale of corruption in Nigeria, Adebani and Obadare (2011) argue that:

the Nigerian case is not merely about the theft of state resources at an alarming level, it is about full-scale banditry. It is entrenched in every sector, private and public, and corruption feeds on the logic that subtends and links one sector to the other in an unending spiral of corruption.

Getting back to Smith (2007), today when Nigerians talk about corruption, they do not only concern themselves with the strict technocratic definition of corruption as the abuse of public office for private gains but also with other forms of morally questionable deception that enable

¹⁰ "Federal Character" is a constitutional provision that requires that government resources and positions are shared equitably to reflect the ethnic, religious, linguistic and geographic diversity of Nigeria. For detailed readings on the Federal Character principle in Nigeria, see Kirk-Greene (1983), "Ethnic Engineering and the 'Federal Character' of Nigeria: Boon of Contentment or Bone of Contentment?", *Ethnic and Racial Studies*, 6, (1983), pp. 457-76; and Ademolekun et al (1991): "Federal Character and Management of the Federal Civil Service and the Military" in *Publius: Federalism in Nigeria: Toward Federal Democracy* 21(4) (1991), pp. 75-88. Oxford University Press.

the achievement of wealth, power, or prestige as well as much more mundane ambitions. Nigerian notions of corruption include everything from government bribery and graft, rigged elections, and fraudulent business deals, to the diabolical abuse of occult powers, medical quackery, cheating in school, and even deceiving a lover (p.35).

Despite the systemic nature of corruption in Nigeria, citizens are still optimistic that with the right leadership, corruption could be effectively controlled. But how much of these ‘corrupt practices’ can the government curb? How many of these ‘corrupt practices’ actually fall under the definition of corruption in the legal sense? Government’s powers to control corrupt practices are encapsulated in the enabling laws of the anti-graft agencies which are by nature very legalistic and specific in their remits. Not only this, certain operational practices of the ACAs focus attention on some ‘corrupt practices’ more than others. In fact, some of the practices highlighted by Smith (2007) are beyond the mandates of the ACAs in Nigeria. The knowledge of these issues is vital to the understanding of the roles of each of the ACAs in Nigeria and by extension, how to comparatively assess the effectiveness of their operations. This is the core of the argument of this paper which shall be further expatiated in the next sections.

METHODOLOGY

The data collection method for this research is by ethnography, mainly by participant observation, document analysis and interviews. The analysis of the qualitative data involves the triangulation of the data collected from these multiple sources to increase the credibility and validity of the research findings and to understand the perspectives of the ICPC on corruption within the Nigerian anti-corruption policies and programmes.

The fieldwork for this study is part of a larger project – a PhD thesis titled “*Forging Ahead as an Anti-Corruption Agency: The Case of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in Nigeria (2000 – 2017)*” submitted to Centre of African Studies, School of Social and Political Science, University of Edinburgh, United Kingdom in the year 2020. The fieldwork was conducted over a period of nine months from November 2016 to July 2017 in Nigeria across five (5) sites namely The National Headquarters of the ICPC in Abuja, the Anti-Corruption Academy of Nigeria Campus situated at Keffi, Kaduna ICPC Zonal Office, Lagos ICPC Zonal Office, and Enugu ICPC Zonal Office.

In each of these sites, my interest was to participate in as many as possible programmes organised by the ICPC and its affiliate (third party) agencies involved in corruption prevention activities and to observe the daily operational activities of the Commission within the limit permitted to non-member of staff. These programmes include seminars, conferences, media briefings, and other public enlightenment engagements. To understand the context of these operational activities and the perspectives of the ICPC, I ensured that I familiarised myself sufficiently with all the available ICPC policy documents, the establishment Act, annual report, law reports, posters and other publications on these programmes. These gave me the background knowledge upon which to relate my observations and consequently guided my interview questions in sessions with key officials of the Commission and randomly selected programme attendees and programme organisers.

In general, this paper draws on different sets of data collected during the fieldwork: the field notes, audio tape recordings of 43 formal interviews conducted in Abuja, Kaduna, Lagos, Enugu, and the Anti-Corruption Academy of Nigeria (ACAN), photos taken in various sites, documents, and archival materials from ICPC repositories across the various sites (offices) and

informal conversations with a number of ICPC officials with whom I interacted daily. Except where the identity of the informant could not be separated from his/her official position, all references to interviews and informal discussions are written with due regards to the anonymity of the sources.

DISCUSSION OF FINDINGS

Understanding the ICPC's Perspectives on Corruption and Anti-Corruption

To understand the perspectives of the ICPC on Nigeria's corruption, I became mindful and receptive to the language and art of description of what constitute corrupt practices by observing keenly the day-to-day operations of the agency and the seemingly unofficial dispositions of its personnel. I became attentive to the institutional messages of the ICPC and the practices (both official and unofficial) of its personnel. My focus was to examine, analyse and understand the underlying ideas and thoughts behind its corruption-prevention messages, communicated through handbills, cartoons, stickers, billboards, and poems in all its available periodical publications.¹¹ I was equally attentive to the personnel's views of the practicality of what they deem to be "tenable and valid" petitions that merit conclusive investigation according to the official description of corrupt acts in the ICPC Act. The task of understanding corruption in Nigeria from the perspectives of the anti-corruption agency is vital for various reasons.

Firstly, it gives an insight into how the anti-graft Commission understands the subject matter of corruption and how this is ingrained into its tasks of combating it, particularly through preventive measures. Secondly, understanding corruption from the perspective of the ICPC tells the researcher how the agency defines corruption in Nigeria in terms of its practices, types, magnitude and spread, its perpetrators and how all of these features individually and collectively determine ICPC's choice of strategies for combating corruption, including the tone of anti-corruption-campaign language and the target audience. And finally, it considers how the Commission's understanding of corruption and the workable approaches to tackling corrupt practices are shaped by its comparative operational advantages, institutional experience and challenges which must be well understood to justifiably assess its operational effectiveness.

As a point of departure, the ICPC Act defines corruption to include mainly bribery, fraud, and other related offences. The Act criminalises any practices including giving, soliciting, and receiving of bribes (and gratuity) to hasten or pervert the course of official assignment. Although the ICPC Act does not explicitly and concisely define what is meant by bribery and fraud, it cites copious offences under Section 8 from which bribery can be inferred to mean the use of rewards to influence the judgment of a person who is in a position of public authority and trust. Fraud refers to the illegal appropriation of public resources for private use or benefit, while 'other related offences' may comprise any number of questionable forms of conduct, including nepotism – the selective distribution of benefit or patronage on the basis of ascriptive relationship rather than merit (Ocheje, 2001, p.179).

This characterisation of corruption by the ICPC Act is in contrast – to some extent – with my observations of official practices of the Commission, documentary evidence and the nature of anti-corruption messages the Commission generates and spreads. In its public education campaigns, seminars and other public engagements, the Commission capitalises on the latitude of "other related offences to include a wider range of corrupt practices beyond bribery and fraud. I shall therefore discuss the nuances that guide the ICPC's perception of corruption in

¹¹ For this, I consulted ICPC periodicals, such as the *Coalition Digest* and *ICPC News*.

the next sub-sections. In doing this, particular attention will be given to specific sources upon which the analyses are based. These include messages as contained in printed media, programmes organised or being sponsored by the ICPC, and information gathered in discussions with ICPC officials.

Corruption is Ubiquitous

If there is anything Nigerians agree upon, it is that corruption is one of the major problems of the country and that it is everywhere in Nigeria's public life. Achebe (1983, p. 2) writes that "wherever two Nigerians meet, their conversation will sooner or later slide into a litany of our national deficiencies", much the same way the British will talk about the weather. He went further to list these deficiencies to include, notably, the problem of corruption.

Quite a number of recent research findings support the inclination of the ICPC on the ubiquitous nature of corruption in Nigeria. For example, a 2017 United Nations Office on Drugs and Crime (UNODC) report titled "*Corruption in Nigeria – Bribery: Public Experience and Response*" puts the prevalence of bribe payment in Nigeria at an alarming rate.¹² As much as 32.3%, representing about a third of all Nigerians who had contact with a public official between June 2015 and May 2016 had to pay, or were requested to pay, a bribe to that public official. These bribes (and extortions) were paid across virtually all the sectors of the Nigerian economy, namely health, education, justice, transport, agriculture, energy, aviation and others.

The report puts the nominal cost of estimated bribes/extortions paid in the reported period at about ₦400 billion. This sum is said to be equivalent of the 39% of the combined federal and state education budgets in the year 2016. While citizens are willing to offer bribes to speed up the delivery of government services which would otherwise be delayed for long periods or even indefinitely, officials extort citizens who opt to evade the payment of a legitimate fine or avoid the cancellation of public-utility services. Most culprits when it comes to bribe-taking in Nigeria are police officers, prosecutors, judge/magistrates, tax/revenue officers and public utilities officers.

In as much as the prevalence of these corrupt practices means that citizens do not only encounter them on a daily basis but also contribute to, and bear their direct financial burdens (Smith, 2007, p. xii), it does not in any way imply that bribes/extortions are the only manifestations of everyday corruption in Nigeria.¹³ Far from that, the prevalence of grand corruption is also high and cuts across various sectors of the Nigerian economy. In fact, because of citizens' ambivalence and collective behaviour towards bribery and extortion experience (Hoffmann & Patel, 2017, p. 12), when they talk about corruption, it is mostly about the massive embezzlement and diversion of public funds by top bureaucrats and politicians – the grand corruption. Although, many of these cases are often scandals in the media without any substantive criminal charges before the courts.

UNODC (2007) puts the estimate of the funds that have been stolen from the coffers of the Nigerian government between 1960 and 1999 at close to \$400 billion.¹⁴ It was also reported that between 2005 and 2014 some \$182 billion was lost through illicit financial flows from Nigeria (Hoffmann & Patel, 2017, p. iv). A yearly average figure of these funds is no doubt far

¹² UNODC (2017): Corruption in Nigeria: Bribery: Public Experience and Response. UNODC Viena.

¹³ For a detailed discussion of forms of everyday corruption in West Africa, including commissions paid for illicit services, unwarranted fees for public services, gratuity, string-pulling, levy or toll, "white-collar" theft and misappropriation, see Blundo & Olivier de Sardan (2006, pp. 69 – 81).

¹⁴ UN Office on Drugs and Crime (2007), "Anti-Corruption Climate Change: it started in Nigeria", speech by Antonio Maria Costa at 6th National Seminar on Economic Crime, Abuja, 13 November 2007. Available on: <https://www.unodc.org/unodc/en/about-unodc/speeches/2007-11-13.html>.

higher than the reported bribery estimates of ₦400 billion reported for 12 calendar months between 2015 and 2016.

With the embedded message in *figure 1* below, the ICPC seems to be aware of this too and also prepares itself to track corrupt practices everywhere in Nigeria and combat it within the limits of its powers.



Figure 1 : ICPC tracks and deals with corrupt practices everywhere in Nigeria. This picture is a common feature found on the doors of government offices. Source: Author’s photo file

In *figure 1*, there are three stickers: “Volunteer Against Corruption”, “We are watching” and “Stand up for your right”.¹⁵ The first two stickers were solely produced by the ICPC to signal its intention to fight corruption everywhere in Nigeria and moreover, to enlist Nigerians as volunteer-partners in these efforts. The last sticker was jointly produced by the ICPC and the Service Compact (SERVICOM) Office, a federal institution aimed at promoting customer-focused services in public administration.¹⁶ The sticker that features the wide-open human eye

¹⁵ “We are watching” is based on state surveillance and entails a logic in which the initiative is that of the authorities doing the watching, trying to make citizens internalize a policing gaze, act as if they are being watched everywhere that there is possibility of committing a corrupt practice. “Volunteer against corruption” and “Stand up for your rights”, by contrast, engage citizens in an active role in the fight against corruption. This is intended to mobilize the citizens against corruption everywhere they may come in contact with, or witness, any corrupt practice.

¹⁶ SERVICOM stands for Service Compact with All Nigerians. It was established in 2004 by the Federal Government of Nigeria as one of the inter-agency institutions reflecting the infusion of the ethos of New Public Management into Nigeria’s public administration. The philosophy behind SERVICOM is to raise the quality of public-service delivery and ensure improved customer satisfaction. SERVICOM gives the public the right to demand good services as well as the right to seek redress when they believe the quality of public-service delivery is below the standard contained in the MDA’s service charter. Every government establishment has at least one dedicated desk serving as a SERVICOM unit, where users of the public service can lodge their complaints about

with the message “we are watching” when meticulously interrogated with its spatial spread and coverage shows the readiness of the ICPC in carrying out surveillance operations on all areas of public life that may create opportunities for corrupt practices. Everywhere you go in government offices in Nigeria, this sticker is pasted on the most conspicuous places, usually at the interface between members of the public and the civil servants. For instance, those three stickers were pasted across the main reception counter at the ICPC National Headquarters in Abuja. This act was deliberate as I came across similar posters on almost every door, not only in ICPC offices but across government offices in Abuja and other cities in Nigeria. I believe this was done to create an impression that the Commission is committed to the tracking of official practices in the delivery of government services in Nigeria even though its presence in only 15 state capitals and the Federal Capital Territory (FCT) of the country significantly undermines this.¹⁷

The collaboration between the ICPC and SERVICOM emerged on the understanding that poor public-service delivery in Nigeria is mainly a result of the institutionalised and systemic corruption that pervades Nigeria’s bureaucracy (Ogunrin & Erhijakpor, 2009, p. 52). Despite their similar orientations and anti-corruption imperatives, the ICPC and SERVICOM do not maintain the same office/unit across government institutions in Nigeria.

Corruption is both Financial and Non-financial in Nigeria

One of the most contentious issues in defining corruption is the nature of the activities that it entails, not the least in Nigeria. As for the ICPC, what constitutes corrupt practices has proved to be fluid. Although the ICPC Act explicitly defines corruption to mean bribes (the act of giving and taking bribes while doing official jobs), fraud and other related offences; what constitute the other related offences are subject to the discretion of the Chairman of the Commission to decide at any given time.¹⁸ This implies the possibility of changes in the focus of the Commission under the successive chairpersons over the years. By virtue of section 70 sub-sections (a) & (b) of the ICPC Act, the chairperson of the Commission operates with some level of autonomy, which allows for administrative discretions in the direction of the operational activities, and particularly in response to the positions of the incumbent government at any particular period.

While it could be inferred that the spirit of the law (ICPC Act) envisaged that corrupt practices may include non-financial abuse of public office by listing as offences such as *corruptly receiving benefits of any kind* in the discharge of official duties (section 8), the non-provision of the exhaustive list of *Other Related Offences* in the discharge of official duties has left the ICPC with no other option than to assume its powers in determining what constitute the *Other Related Offences*.

The ICPC as an “all-round” anti-corruption agency – and in recognition of the far-reaching negative impacts of the non-financial corrupt practices – has initiated and co-

poor service delivery when the need arises. SERVICOM is co-ordinated by a Chief Executive Officer directly reporting to the office of the President of Nigeria. See <https://servicom.gov.ng/our-clinic/about/>. Last accessed on 02/10/2019.

¹⁷ Nigeria is a federation of a Federal Capital Territory (FCT), 36 States and 774 Local Governments. ICPC offices are sited in only 17 locations – the FCT and 15 State capitals across Nigeria. See: <https://icpc.gov.ng/office-locations/> (Last accessed 24/05/2020).

¹⁸ ICPC Act section 70 sub-sections (a) & (b) provide thus: the Chairman of the Commission may make rules for giving effect to the provisions of this Act and, without prejudice to the generality of this provisions, may make rules: (a) providing for the form of any notice, order, declaration or any other matter under this Act; and (b) for the service or delivery of any notice, order, direction, instruction, or other thing to be done under this Act.

ordinated a nation-wide massive anti-corruption sensitization and orientation programme – including several projects with NGOs, Schools, the National Youth Service Corps (NYSC) and others. In the course of an interview, a senior member of staff of the education department noted that, on moral grounds, an inclination to corrupt tendencies evolves over a long period of time in an individual’s life. If more efforts could be focused on “the training of our children from a tender age, to abhor corruption and all forms of its manifestations, the next generation of Nigerians will be better for it”¹⁹. This informed the decision of the ICPC to initiate, in collaboration with the Nigerian Educational Research and Development Council (NERDC), the drafting and the subsequent inclusion of ‘National Values’ into the National Educational Curriculum. This curriculum is targeted at children from the primary education level. I read through some of its pages to understand the context in which corruption was being taught to the pupils. It was interesting to learn that in the ICPC’s understanding of anti-corruption education for school children, little things count. Corruption is taught as “any act that violates school’s rules and regulations including but not limited to fighting (physical assault amongst school children), stealing, lateness to school, truancy, sexual immorality, examination malpractices, not doing one’s home-work amongst others”²⁰. As the level of education progresses to high school, the focus on abuses of public office and the sanctions thereof were gradually introduced.

Figure 2 below is taken from page 48 of the ICPC Integrity Guide Handbook produced to sensitize NYSC members (a segment of the Nigerian youth population) against corruption. Here, the Commission campaigns against examination malpractices, internet fraud, indecent dressing and admission racketeering. While it may be argued that all these ‘crimes’ contribute to the level of indiscipline in society, it is not explicit how the ICPC assumes the powers over them as ‘corrupt practices’.²¹ However, considering the years of its public (youth) mobilization against corruption, it becomes quite clear that field experience might have influenced the thoughts of the Commission on Nigeria’s corruption problem, particularly among the youth. From the views of the ICPC, even though these ‘crimes’ do not explicitly fall under its enabling law in most instances, the fact that they contribute to youth indiscipline, and in grooming them to become adults with corrupt-practice tendencies is enough justification to focus on the strategies to prevent them by nipping them in the bud.

¹⁹ Interview with the Director, Education Department, ICPC Headquarters, Abuja. July, 2017.

²⁰ Corruption defined in this context goes beyond the provisions of the ICPC Act. From the perspective of the ICPC education and prevention programmes, however, it appears defining corruption in this way is intended to capture all unethical practices among the children that could groom them negatively into becoming individuals with tendencies to commit corrupt practices later in life.

²¹ Apart from certain non-financial abuses of public office, such as criminal appropriation of public property, it is unclear under what powers the Commission assumes the roles of fighting “other crimes” including examination malpractices and indecent dressing, which may not be directly linked to holders of public office in most instances.

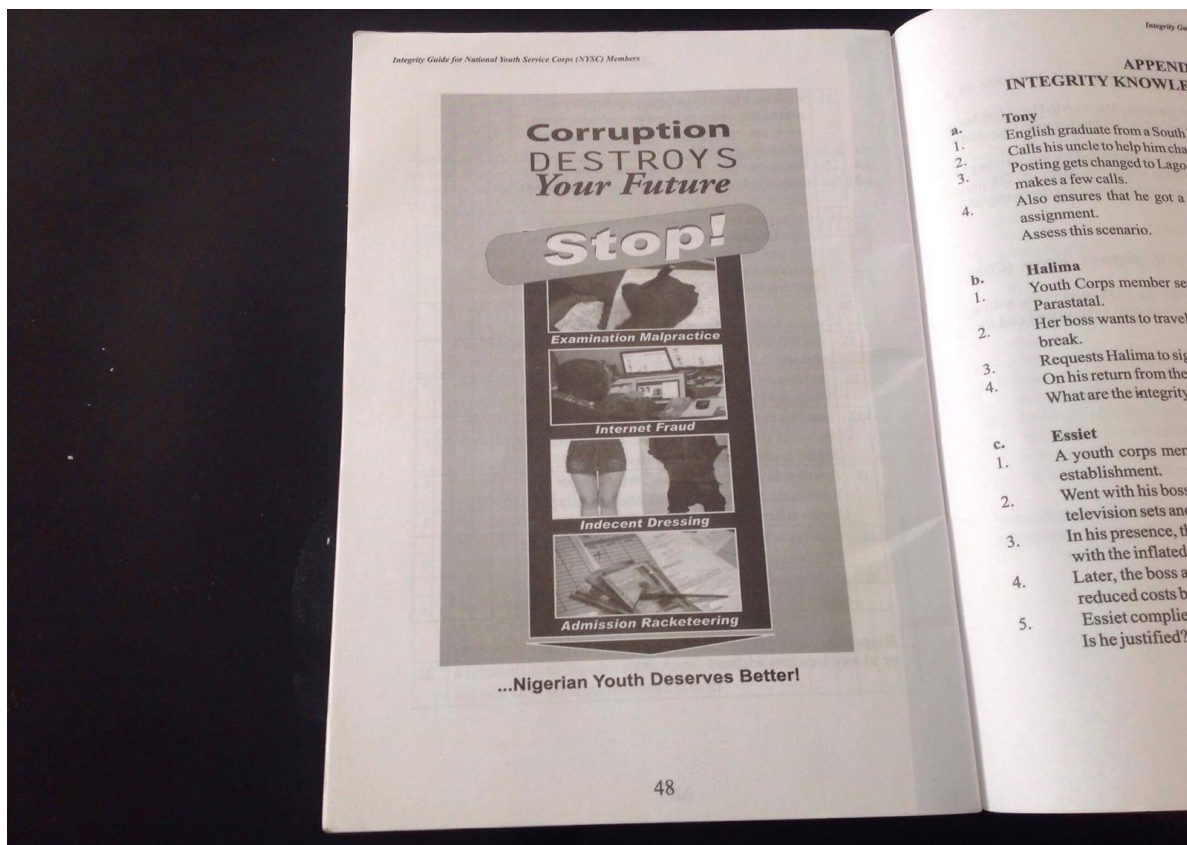


Figure 2: Examination Malpractice, Indecent Dressing, Internet Fraud and Admission Racketeering as Corruption. Source: Integrity Guide for National Youth Service Corps (NYSC) Members. p.48

Within the context of the youth groups, it seems the focus on the non-financial corrupt practices, as highlighted by the ICPC instructional materials (see figure 2 above), has to do more about campaigning and changing the mentalities and attitudes of the Nigerian youths about corrupt practices than about punishing such offences. For example, the Commission has neither charged nor prosecuted any student for the offence of examination malpractices. This is one of the grey areas where the ICPC has carved a niche for itself to widen the scope of its autonomy on issues not specifically stated in its enabling Act. The anti-corruption programmes focusing on students' activities have not been challenged or reversed by any stakeholder as they seem to enjoy ex-post legitimacy in the spirit of Carpenter's (2001) work.

Notwithstanding its lack of specific powers on most of these non-financial crimes, (especially corrupt practices by individuals not holding public office) and being the first post-1999 anti-corruption agency to operate within a context of widely perceived declining morality (Smith, 2007, p. 138), the ICPC has taken up the fight against increasing dimensions of amoral practices in public and private sectors of the economy on ethical grounds. For instance, from my field observations of the operations of the Commission, its law-report volumes and pending court cases, proceedings of seminars and workshop, there has been an increased focus on non-financial corrupt practices with punitive measures on convicted culprits. The range of practices that have received ICPC attention is broad and includes the abuse of processes in public recruitment exercises (on grounds of ethnicity and patronage, for instance), examination

malpractices, admission racketeering, the operation of illegal universities and colleges, sexual harassment, and the possession and use of fake academic certificates.²²

The implication of the above scenario, in which the ICPC digs deeper into non-financial corrupt practices, to any keen observer of events in Nigeria is that the ICPC has become a jack of all trades. To clear any doubts on the focus of the Commission, I asked the chairman what the priority of the ICPC is within Nigeria's anti-corruption landscape, and whether the ICPC and the EFCC are complementary or competitive institutions. He was unequivocal in his response. He recounted that the ICPC being the foremost agency amongst all, was created with overarching mandates to prevent, investigate, and prosecute *all* forms of corrupt practices in Nigeria. Hence, the Commission's operations are central to those of all other related agencies created after it.

Moreover, the emergence of specialised crimes (such as a money laundering) after the creation of the ICPC, and the need to implement the provisions of the United Nations Conventions Against Corruption (UNCAC) ushered in specialised agencies such as the Economic and Financial Crimes Commission (EFCC), National Drugs Laws Enforcement Agency (NDLEA) and the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). The EFCC addresses issues of economic and financial crimes, terrorism financing and also takes care of criminal activities related to money laundering, while NAPTIP and NDLEA enforce Nigeria's anti-human-trafficking and drug laws respectively. He further cited the recent inauguration of the Cybercrimes Advisory Council to combat cybercrimes as an effort "to address specifics but ICPC still remains central to all these activities."

Overall, from my observations, though the Commission's focus on the non-financial corrupt practices largely promotes its corruption-prevention strategies, especially among the youths and enhances its institutional visibility, the punishments attached to non-financial abuse of public office in most instances remain undefined and thereby leave most of such abuses unpunished.

Corruption Thrives on Opacity in Public Administration and Finance

During the months of my fieldwork, a recurring theme that featured in the approach of the ICPC to its anti-corruption campaign programmes was that corruption is endemic in Nigeria because the bulk of government operations, institutions and their practices are outside the view and scrutiny of the public. This re-enacts the emphasis on transparency as the core pillar of anti-corruption campaigns (Carlitz, 2013, p. 49; Bauhr & Grimes, 2017, p. 431). Even though government ministries, agencies, parastatals and their personnel cannot function without interacting with the public, the core of their activities, especially the financial operations that determine the level of economic exertions on the public (through taxation and other revenue generating measures, for example), and policy priorities through government expenditures and budgeting, largely escape the public purview. This crucial disconnect from the public, despite the conspicuous public presence of government institutions, creates substantial opportunities

²² The ICPC has charged, prosecuted and secured convictions of a number of public officials (like teachers, lecturers etc) who abused their positions by engaging in examination malpractices and sexual harassment in the past. See (**Vanguard, Nigeria 2019**): (ICPC)Exam Malpractice: Ibadan Poly Lecturer bags 20-year Imprisonment available at <https://www.vanguardngr.com/2019/11/icpc-exam-malpractice-ibadan-poly-lecturer-bags-20-year-imprisonment/> (last accessed 19/05/2020) and (**CNN 2018**): Nigerian professor in sex for grades scandal gets prison term. Available at <https://edition.cnn.com/2018/12/17/africa/nigerian-professor-jailed-in-sexual-assault-case-intl/index.html> (last accessed 19/05/2020).

for corruption because of the “opacity in governance processes in Nigeria” (Human Rights Watch, 2007, p. 2; Uzoigwe, 2011, p. 3; Amuwo, 2013, p. 138).

Captured in one phrase, the ICPC aimed its anti-corruption measures at targeting the opening-up of governance processes to the public through its advocacy for transparency and increased public participation in government’s programmes and projects. This institutional philosophy, which guides nearly all preventive anti-corruption activities of the ICPC, derives from at least two grounds: the theoretical views on the definition of corruption and the international context of anti-corruption campaign initiatives.

Theoretically, the fraud triangle theory based on the scholarly work of Cressey (1950, 1953), postulates that corrupt practices thrive on the concurrent existence of three main factors: pressure (motivation), opportunity and rationalization. The prime among these factors being the opportunity for corrupt practices. The existence of opportunity for corruption and corrupt practices, in addition to pressure from individual’s social network and self-rationalisation of corruption practices tend to increase the likelihood of abuse of power in positions of trust. Opportunities for corruption could be a result of excessive discretionary powers in the hands of public officials and limited or no public participation, review and scrutiny of official practices. ICPC’s interventions draw on Cressey’s work by focusing on the dismantling of the opportunities for corruption that exist in various public systems in Nigeria. For instance, section 6(b) of the ICPC Act explicitly mandates the Commission to: “*examine the practices, systems and procedures of public bodies and where, in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, to direct and supervise a review of them.*” Through its Planning, Research and Review (PRR) department, the Commission has conducted a number of system studies and reviews across MDAs in Nigeria (ICPC, 2006, 2010, 2012, 2015). Again, in a bid to minimize corruption through the promotion of transparency, the Commission has been campaigning for increased participation by members of the public in government processes such as budgeting.

Moreover, ICPC’s disposition towards increased transparency in public finance could be situated within the global context of anti-corruption campaigns. The post-cold war shift from government to governance, and by extension increased focus on good governance in the Global South, has undoubtedly popularised the concept of ‘transparency’ as a *sine qua non* for anti-corruption (Bauhr & Grimes, 2017, p, 431). Transparency entails openness, accountability, and integrity in government (Ihugba, 2016, p. 206).

Conceptually, transparency means open access to public information while accountability connotes institutional responsiveness to stakeholders’ concerns (Fox 2016).²³ Fox (2007, pp. 664 - 665) contends that “Transparency is necessary but far from sufficient to produce accountability”, and that “the actual evidence on transparency’s impact on accountability is not as strong as one might expect”. Nevertheless, within the context of good governance and development, transparency and increased citizen participation in government programmes signal to public officials that they are on the radar and their actions are subject to reviews and periodic social accountability.²⁴

Figures 3 and 4 below are pictures of ICPC transparency-awareness campaign banners with messages to educate the citizens on their right to know the contents of the budgets of the governments at various levels – council, state, federal, ministries, departments etc. Banners and

²³ Accountability could be upward (to international donors) or downward (to members of the public). See Fox (2018, p. 66).

²⁴ Social accountability here refers to the responsiveness of public institutions to the needs and concerns of the members of the public (See Fox 2018, p. 73).

stickers that carry these kinds of messages are common features within the premises of ICPC offices that I visited. They were also displayed during the various conferences, seminars and workshops organised by the Commission and its partner institutions during my fieldwork. Figure 3 adds a message that encourages citizens' participation in the budgetary processes: "you have the right to not only know but also contribute to its formulation and implementation". The ICPC, in recent years, has put these transparency and participation messages into practice by facilitating various project interventions in collaboration with local communities, Civil Society Organisations (CSOs) and international donor agencies.

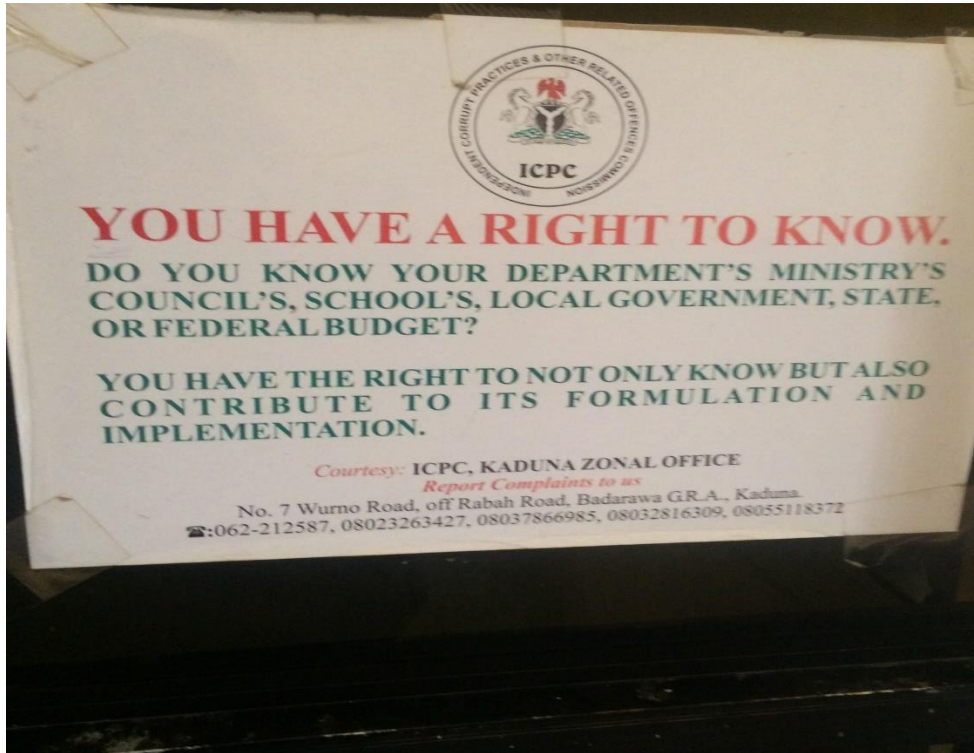


Figure 3: Transparency-Awareness Banners on participation in budgetary preparation process.
Author's photo file

One of these projects was titled "Real People, Real Impact" and was funded by the United Nations Development Programme (UNDP), launched and implemented under the supervision of the Education Department of the ICPC in 2009 by four non-governmental organisations: Afro Centre for Development, Peace and Justice (AFRODEP); Poverty Alleviation for the Poor Initiative (PAFPI); Anti-Corruption Youth Movement, Nigeria (ACYMN) and Democratic Action Group (DAG). This project took a bottom-to-top approach to budgetary processes. It engaged the selected communities across three (Sokoto, Niger and Delta) states in Nigeria in all the key stages of budgeting and project execution including project identification, planning, and implementation and monitoring. The idea was to change the long-established practice whereby public officials assumed they knew what the community needed and therefore budgeted on behalf of the people. The old process did not only alienate people by misplacing what might have been their needs and priorities but also provided the avenue for misappropriation and embezzlement of public funds. Through the top-bottom budgeting practice, many citizens were oblivious of most public works that were already backed with funds. In Nigeria, many public works that were long 'executed' on government white papers remained either untouched or abandoned half-way through, with public officials claiming that

funds were inadequate to complete such projects, when in fact, the allocated funds have been siphoned into private pockets.



Figure 4: Operation Know Your Budget. Source: Author's photo file.

In a major government policy shift to support transparency in public finance, the Federal Ministry of Finance commenced in 2005 (Songwe et al., 2008) the publication of monthly federal allocations that have been disbursed to the various tiers of government in national dailies. This attempt was to prevent situations in which public officials hitherto divert these allocations to other uses while key budgetary items such as salaries and other recurrent expenditures are left unattended.

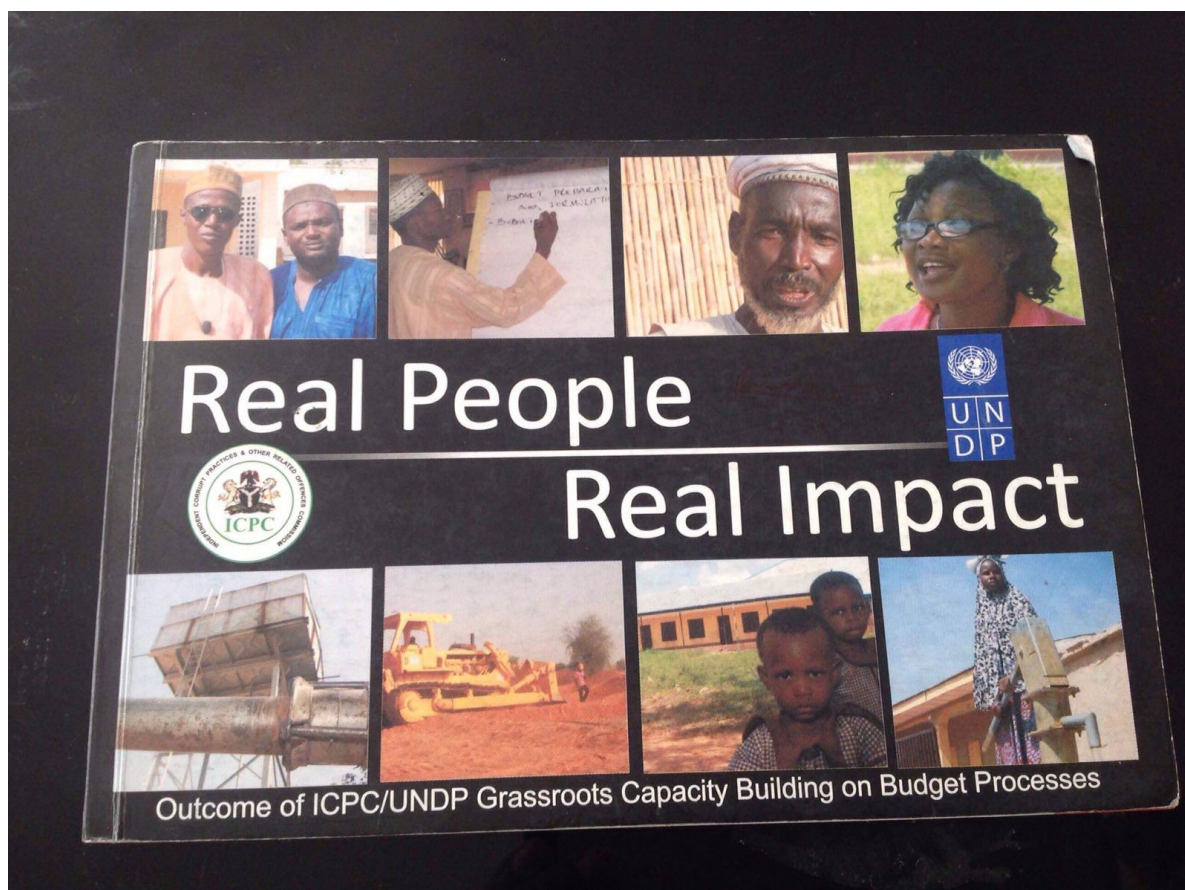


Figure 5: Training Workshops and some of the projects executed as outcomes of ICPC/UNDP Grassroots Capacity Building on Budget Processes published in 2012.

Another major boost to the ICPC’s transparency, participation and accountability projects in Nigeria is the enactment of the Freedom of Information Act (2011).²⁵ This act seeks to “make public records and information more freely available, provide for public access to public records and information, and protect public records and information to the extent consistent with the public interest...” (FOI Act, 2011). To some extent, these initiatives to promote transparency have yielded positive results with civic organisations like *Budgit*, which was founded in 2011 by a group of young Nigerians.²⁶ *Budgit* utilizes an array of technological and statistical tools to break down and analyse government budgets and financial records before putting these in a format very easily readable and understood by members of the public. It regularly publishes budgetary guides in layman’s terms and pictographs to sensitize the citizens using the information available to it from government sources with a view to raise the standard of transparency and accountability in government. It also leverages on the power of social media to reach many followers and users of its outputs. Nevertheless, there are still challenges surrounding public participation and transparency of public finance in Nigeria. For example, public procurement is still rife with insider abuses regardless of the enactment of a new Public Procurement Act in 2007.

²⁵ Available from <https://www.cbn.gov.ng/FOI/Freedom%20Of%20Information%20Act.pdf>.

²⁶ *Budgit* uses an array of tech tools to simplify the budget and matters of public spending for citizens, with the primary aim of raising standard of transparency and accountability in government. See: <http://yourbudgit.com/about-us/> (accessed on 05/07/2019).

The foregoing notwithstanding, the continued engagement of citizens in budgetary processes, persistent public awareness on public finance (especially in the national dailies), and emphasis on integrity, ethical standards and internal control measures during ICPC seminars and workshops for public officials demonstrate the Commission's acknowledgement of corruption as an opportunist crime, and the need to tackle it through increased openness and strict internal control measures that minimise such opportunities.

Contradictions Inherent in Practical Anti-Corruption Measures Are Sometimes Valuable

The ICPC is empowered to fight corrupt practices in Nigeria through the enforcement of the (punitive) anti-corruption laws, and implementation of corruption-prevention strategies. Strictly speaking, the enforcement of anti-corruption laws involves the investigation of reported cases and petitions, prosecution of culprits where *prima facie* cases are established and ensuring that indicted entities are made to face the appropriate penalties as stipulated by the law. This is however not as straightforward as it appears in theory. From the available records, the Commission's enforcement activities have been very limited even in criminal corrupt practices against the state (Adebanwi & Obadare, 2011, p. 192; Babasola, 2017, p. 128).

Rather than focus exclusively on its enforcement powers, the Commission sometimes explores other non-prosecutorial (though not backed by law) means to resolve corrupt-practice cases. Given given the plethora of pending and unending cases that the Commission has filed before various courts and the associated prosecution costs involved, the non-prosecutorial approach might have proved more effective in some cases over the years. Notwithstanding, it has conflated the stand of the Commission in relation to its explicit powers to bring accused persons to justice through prosecution.

From the perspective of legality, several posters, handbills, billboards, printed T-shirts and other publicity materials have images of handcuffs that are hooked to arrested suspects, preparatory to prosecution as shown in *Figure 6* below. The emphasis is that all offences stipulated in the ICPC Act are punishable by law and whenever there is a petition or credible intelligence to investigate any of these crimes, the Commission is committed to thorough investigation and prosecution to ensure that the indicted suspects are appropriately sanctioned.

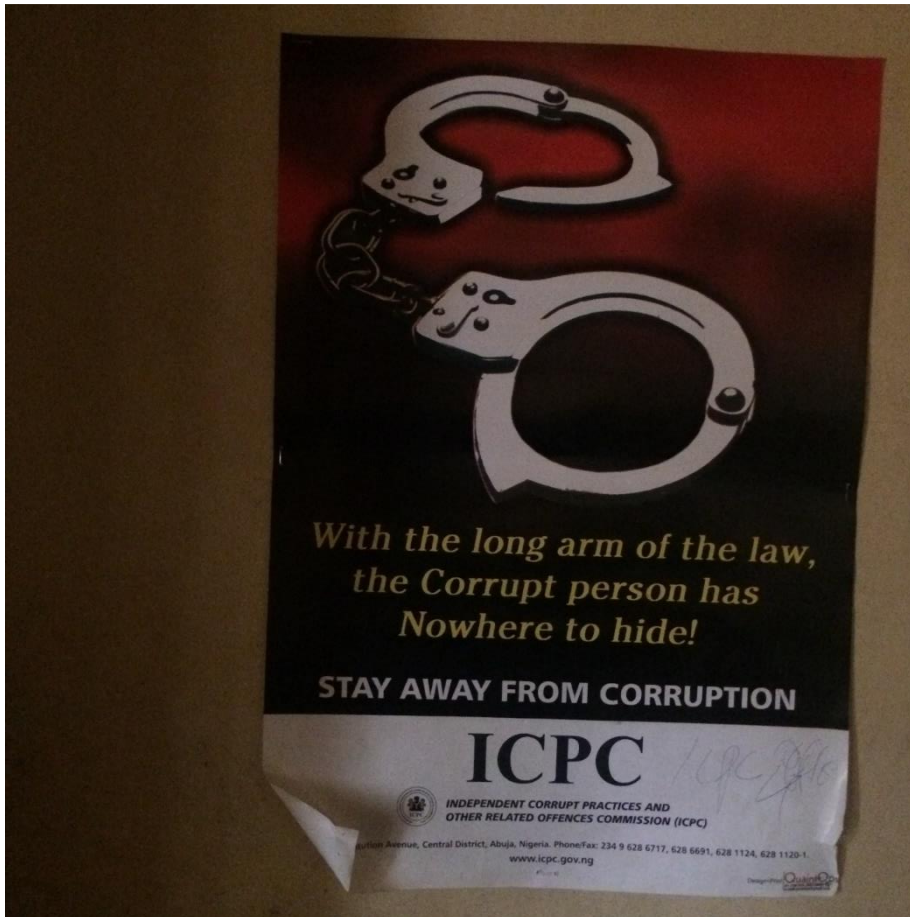


Figure 6: Handcuffs signifying ICPC's commitment to strict enforcement of anti-corruption laws. Author's photo file..

However, from the experiences of key ICPC officials in charge of enforcement, investigation, prosecution and asset tracing, the barrage of legal encumbrances that surround the investigation and prosecution of corruption petitions have resulted in a practical realisation of the need for the contextual alternative resolution of corruption cases without prosecution. The first time an ICPC member of staff mentioned this possibility to me, he quickly looked around apparently to see if no one else had heard him despite the fact that we were just two in the vicinity. His facial expression clearly indicated that what he had just told me did not reflect the Commission's official position but was nonetheless a routine practice within the organisation.

In subtly expressed but similar submissions, some other key officials of the ICPC at the headquarters averred that the realisation that the strict enforcement of the ICPC Act is not always feasible accounted for the Commission's shift of focus from enforcement to corruption-prevention strategies, by deepening moral and ethical codes in work places as tools for moulding the conduct of public officials. Not only this but also, wherever restitution is sufficient to resolve an alleged case of corrupt practice either by people in public office or between two private parties (as were occasionally reported), criminal prosecution is considered only as a second option. Consider the following case of diversion of public assets into private hands. In 2016, some retiring directors at the Federal Ministry of Water Resources misappropriated project vehicles.²⁷ The intervention of the ICPC upon the receipt of the

²⁷See (The Punch 2017a): ICPC to prosecute ex-directors for stealing 40 vehicles available at <http://punchng.com/icpc-prosecute-ex-directors-stealing-40-vehicles/>.

petition submitted by some staff in the ministry only led to the retrieval and return of these vehicles to the departments from where they were ‘taken away’. Some of these vehicles are displayed in *figure 7* as they were awaiting the return to the ministry after being retrieved from the retired officials. At the ceremony marking the return of these vehicles to the ministry on 26 January 2017, the ICPC chairman, Mr Nta Ekpo said:

This formality should not just be for handing over of recovered vehicles from one anti-corruption agency to another public institution. Rather, it should be a moment for solemn reflection on our avowed commitment to public service and the thought processes of the public servant going into retirement. It is not so much that official vehicles of the Federal Ministry of Water Resources were dishonestly made away with by retiring public servants. However, what is more significant is the need to ask some questions and consistently interrogate how 40 government vehicles were removed without authorisation (The Punch, 26th January, 2017).

By making a remark on the thought processes of the public servant going into retirement and calling for solemn reflection “on our avowed commitment to public service”, the chairman was actually not only questioning the genuineness of the retiring directors’ commitment to public service but also the dysfunctional systems within the ministry where this theft of government vehicles was possible in the first instance. The chairman’s speech ended with a promise that the retiring directors indicted would be prosecuted according to the law. However, to date there has been no report on the prosecution of any of the directors involved.



Figure 7: Stolen cars retrieved from government officials. Source: ICPC, 2017.

Similarly, in all reported (alleged) cases of fraud between private parties, the ICPC tries, in the first instance, to establish the basis of the transaction between them. If it is a case of pure business contract in which one party is deemed to have either violated the terms or defrauded the other, a referral of the case is made to the police for criminal/civil investigation and

prosecution as appropriate. The chairman told me the Commission does not involve itself in fraud cases resulting from business contracts between two private parties. If, however, a member of the public is defrauded by a public official (for example in a case of alleged employment scam), it is the duty of the ICPC to investigate the case and prosecute the indicted official where necessary. In what may be likened to Alternative Dispute Resolution (ADR) mechanism, the chairman said most cases involving private individuals and public servants are more often than not resolved by restitution. Two cogent reasons were offered for this. One, if the indicted public official is able to fully refund the amount of money fraudulently collected from the individual and the money is returned, in many instances, the individual (the complainant) unilaterally stops honouring investigative appointments. At that point, the agency will be unable to present the key prosecution witness should the case proceed to court. Two, if the official is able to fully refund the criminally obtained money to the private citizen, the complainants in some cases formally opt to withdraw the petition. This option is preferred upon legal advice and past experiences of prolonged court cases resulting from injunctions, jurisdictional challenges and perpetual adjournments which are very common in Nigerian courts.

Implication of findings to Research and Practice

In this study, our premise is that it is quite common for studies conducted on Nigeria's anti-corruption programmes, to review the comparative operational performances of the leading anti-corruption agencies namely the ICPC and the EFCC, against some criteria that are not usually clear or well-justified for such comparative work. Our argument is that there are certain institutional background factors that characterise the outlook of each of these agencies including but not limited to their perspectives on Nigeria's corruption which may or may not be limited to their statutory powers.

In analysing the perspectives of the ICPC on Nigeria's corruption, we find that the Commission contextualises corruption beyond its statutory definition of corruption as mainly bribery, fraud, and other related offences. Corruption is construed as being ubiquitous, financial, and non-financial in nature, and that corruption thrives on opacity in public administration and governance. Also, in anti-corruption enforcement activities, the Commission finds certain inherent contradictions which are nevertheless considered valuable. All these views which shape the institutional and operational outlook of the ICPC are usually not taken into consideration when conducting the comparative studies. Does the EFCC have these views about corruption? How does the statutory definition of corruption in EFCC's mandate shape its operational outlook?

The implication of these findings and the crucial questions they raise is that the comparative research practices on Nigeria's anti-corruption agencies must change. Any comparative research or policy analysis on the ACAs in Nigeria should always acknowledge and contextualise the issues identified in this paper so that their findings and conclusions can be of much relevance to expand the extant body of knowledge in this field.

CONCLUSION

It is customary for researchers to discuss the comparative operative performance and effectiveness of Nigeria's foremost anti-corruption agencies: the ICPC and the EFCC. These comparisons which mostly favour the EFCC are mostly done without any clear background knowledge of the core issues underlying their institutional outlooks or any clear criteria to justify such exercise. In this paper, we argue that there is need to review this simplistic approach to the comparative assessment of ACAs in Nigeria. To improve on the existing approach,

certain factors must be contextualised and understood as they impact on the institutional approaches to Nigeria's corruption and anti-corruption interventions. These include the relative statutory powers, operational resources, and mandates of these institutions vis-à-vis their respective institutional perspectives about corruption and how to pursue their statutory mandates without compromising their missions. While most of factors can be studied and understood from secondary sources, the respective institutional perspectives of these agencies on Nigeria's corruption requires a further and closer examination.

In this paper, we employ ethnography through participant-observation, interviews, and document analysis to explore ICPC's perspective on Nigeria's corruption. We argued that the Commission contextualises Nigeria's corruption problem as being ubiquitous, financial, and non-financial in nature, and that corruption thrives on opacity in public administration and governance. Moreover, the Commission finds certain inherent contradictions in practical anti-corruption measures as sometimes valuable. Even though the Commission was established to fight all forms of corruption in Nigeria, operational experiences have shown that its statutory powers are effectively limited to curbing public (official) corrupt practices, a terrain laden with a great deal of politics. All these thoughts guide the Commission's shift of focus from a more aggressive and repressive anti-corruption enforcement activities to predominantly corruption prevention programmes and activities.

The Commission's perspectives on Nigeria's corruption and its experience in enforcing its mandate have nurtured its determination to pursue a much less-politically confrontational approach to the fight against corruption, and a quest for operational strategies in less-contested areas of its specialization and statutory capabilities. Given this background of ICPC's operation, it will be too presumptuous to compare its operational effectiveness with that of the EFCC without any recourse to the foregoing discussions.

Future Research

Our main argument in this study is that the research practices on the comparative analysis of the operational performance of ACAs in Nigeria must change. This change would reflect an acknowledge and appraisal of the critical institutional factors whose understanding is crucial to the undertaking of fair and justifiable comparative studies on Nigeria's anti-corruption institutions. It is pertinent to state that our study has focused on only one institution – the ICPC. Future complementary research focusing on the EFCC's perspectives on corruption and answering much the same question on EFCC as this paper will be of significance. In fact, future research focusing on the comparative analysis of these institutional background factors of the ICPC and the EFCC instead of the mainstream operational performance comparisons will be of seminal value.

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