

Evaluation of the Anti-Corruption Laws and Measures on Investment in Nigeria

Theresa U Akpoghome***

A. Abstract

Nigeria's persistent corruption problem has significantly impeded its sustainable development and investment attractiveness. The pervasive nature of corruption poses substantial challenges to the nation's economic progress, governance, and both local and international investment opportunities. In response, various anti-corruption laws and measures have been instituted to combat this issue and promote transparency and accountability. This paper evaluates the effectiveness of these laws and measures in enhancing Nigeria's investment climate. Utilizing a doctrinal research methodology, the paper conducts a comprehensive analysis of the legal framework, enforcement mechanisms, and practical outcomes. The paper identifies significant challenges and gaps within the regulatory and implementation mechanisms. It further delineates potential areas for improvement in Nigeria's anti-graft efforts and their impact on investments. The findings suggest that for anti-corruption measures to be effective, the government must demonstrate political will by adequately funding relevant agencies to enable optimal functioning. The paper concludes that the robust implementation of anti-corruption laws and mechanisms will enhance transparency, accountability, and adherence to global best practices, thereby encouraging increased investment in the country.

Key Words: Corruption, Investment, Mechanisms, Laws, Transparency, Accountability.

B. Introduction

Corruption is a practice that hampers the growth of economies globally and must be combated in all areas of life. It is not a new issue; it has been prevalent worldwide for a long time, affecting religious, political, economic, and social spheres.¹ This pervasive issue contaminates every level of a society's socio-political and economic structure.² Developing

* Akpoghome Theresa U, Professor of Law, Faculty of Law, Benson Idahosa University, Benin City, Nigeria. E: Mail: teremajor@gmail.com, takpoghome@biu.edu.ng. Ph: +2348065436545.

** Nkechiinyere Huomachi Worluh-Okolie, Lecturer, Faculty of Law, Benson Idahosa University, Benin City, Nigeria. E: Mail: nkechiworluhokolie@gmail.com, nworluh-okolie@biu.edu.ng. Ph: +2348062284449.

1 *Anga A. Rosemary and Gomwalk O. Bonmwa* 'Corruption and Economic Development in Nigeria: A theoretical Review', *LWAT: A Journal of Contemporary Research* (2014) 11 (2) 34-44 at 34.

2 *Alege S. Ola et.al.*, 'Effects of Corruption on Economic Development in Nigeria', *Global Journal of Interdisciplinary Social Sciences* (May-June 2024) 3(3) 209-215 at 209.

economies, in particular, suffer devastating consequences due to corruption. As a global phenomenon, corruption varies in degree across nations.³

In Nigeria, corruption is a persistent problem that severely impedes development. It is a long-standing political and economic challenge for the country, often described as a cankerworm deeply embedded in its fabric. Corruption manifests in various forms, from petty corruption to political and bureaucratic or systemic corruption.⁴ It is widely recognized as the primary obstacle to Nigeria's development. This is evident in Transparency International's consistent ranking of Nigeria among the top three most corrupt nations globally. However, in January 2024, Nigeria showed some improvement, climbing five places to rank 145 out of 180 countries in the Corruption Perception Index (CPI).⁵

World Bank studies estimate that corruption costs over \$1 trillion annually, accounting for up to 12% of the GDP in countries like Nigeria, Kenya, and Venezuela. Corruption has significantly undermined government efforts to improve citizens' well-being and has become almost a lifestyle in Nigeria, affecting both public and private sectors. Various administrations have implemented mechanisms to combat this issue, but these efforts have faced significant challenges, with corruption persistently fighting back.⁶

This paper examines the impact of anti-corruption laws and measures on investment in Nigeria. It is organized into seven parts, starting with an introduction. Part B provides a conceptual framework for the discussion. Part C reviews the legal framework and the role of institutions in combating corruption. Part D outlines other measures Nigeria has implemented to address corruption and attract investment. Part E evaluates the impact of these anti-corruption laws and measures on investment, while Part F discusses the challenges in effectively tackling corruption. Finally, Part G offers solutions, and Part H concludes the paper.

C. Conceptual Framework

I. Corruption

Corruption is defined by Merriam Webster dictionary as dishonest or illegal behavior especially by powerful people (such as government officials or police officers), inducement to wrong by improper or unlawful means (such as bribery). It has also been defined as a form of unethical behavior by someone occupying a position of trust with the motive of personal

- 3 Luna, F., and Perrone A., 'Agent-based Method in Economics and Finance: Simulation in Swarm' as cited by Alege et al., *Ibid* p. 209
- 4 Abimbola A. 'Nigeria: Cesspits of Corruption', *This Day Newspaper* (Lagos, 19 June 2007), <<https://www.allafrica.com/stories/200706200581.html>> accessed May 09 2024.
- 5 Transparency International, 'Nigeria moves five places up in TI's Corruption Perception Ranking (Jan 20024), <<https://www.premiumtimesng.com/news/663552-nigeria-moves-five-places-up-in-its-corruption-perception-ranking.html>> accessed May 10, 2024.
- 6 Nwabuzor A, Corruption and Development: New Initiatives on Economic Openness and Strengthened Rule of Law, Ethics, *Springer*, (June 2005) 59 (1), 121 – 138.

gratification.⁷ The Basel Institute on governance defines corruption as “the abuse of public office for personal gain.” They went further to state that over the past two decades, they discovered that the definition has fallen short of the evolution of corruption and they posit that corruption does not only involve the abuse of public office, but also the abuse of power and influence vested in a person as a result of holding a political office, of holding an influential role in a corporation, of having personal wealth or access to significant resources, or of having elevated social standing.⁸ This definition is quite comprehensive and captures the very source(s) of corruption in Nigeria today.

Corruption involves not only personal gain but can also benefit collective entities like political parties, corporations, or groups.⁹ These gains are not solely financial; they also include non-financial benefits such as preserving or increasing power and influence for individuals or entities.¹⁰ It's essential to recognize that corruption goes beyond bribery to encompass a broad range of behaviors, including conflicts of interest, patronage, nepotism, embezzlement, influence peddling, and the manipulation of legislative processes for corrupt purposes. All these actions fall under the broader concept of corruption.¹¹

Finally, corruption is no longer always a matter of action and immediate or direct consequences. Rather it is increasingly construed as a long-term game, particularly when its aim is access to or preservation of power and influence and expanding geopolitical influence.¹² The Global Infrastructure Anti-corruption Center (GIACC) in its contribution said that “corruption is an umbrella term which includes the criminal offence of bribery, extortion, fraud, cartels, abuse of power, embezzlement and money laundering.¹³

Having identified the facets of corruption, it is crucial to outline the specific types that have impeded Nigeria's development for years. Corruption in Nigeria manifests in various forms: electoral corruption, bureaucratic corruption, judicial corruption, economic corruption, political corruption, and general corruption. These different forms of corruption have significantly hindered the country's progress.

Opinions on the root causes of corruption in Nigeria vary.¹⁴ Some attribute it to poverty, which creates desperation and vulnerability to corrupt practices. Greed and economic insecurities drive individuals to seek illicit gains. Prebendalism, where public office is seen as

7 Bamgbose Patrick Olusegun, ‘The Negative Impact of Corruption on Development in Nigeria’, *Research on Humanities and Social Sciences* (2018) 8 (6), 108-112 at 108.

8 Basel Institute on Governance “What is Corruption”, <<https://www.baselgovernance.org/what-is-corruption>>, accessed 10 May 2024.

9 *Ibid.*

10 *Ibid.*

11 *Ibid.*

12 *Ibid.*

13 GIACC “What is Corruption”, <<https://www.giaccentre.org/what-is-corruption>> accessed 10 May, 2024.

14 Usifo V, ‘Effects of Corruption on Nigeria Economy and the way forward’, (2017) <<https://www.infoguide nigeria.com>> accessed 10 May 2024.

a means to personal enrichment, contributes to systemic corruption. Declining moral values and a lack of patriotism weaken societal resistance to corrupt behaviors. Additionally, the societal emphasis on wealth, irrespective of how it is acquired, perpetuates corruption.

Other factors include poor incentives for honest behavior, which fail to deter corrupt practices, and the influence of godfathers, who use their power to protect and promote corrupt activities. Sentiments, such as ethnic or religious loyalties, can also exacerbate corruption by prioritizing personal connections over merit and integrity.¹⁵ These multifaceted causes create a complex environment in which corruption thrives, obstructing Nigeria's development.

II. Investment

Investment, the act of allocating resources with the expectation of generating income or profit, is crucial for personal finance, business growth, and overall economic development.¹⁶ In Nigeria, corruption significantly impacts investment by creating an unpredictable and costly business environment, deterring both foreign and domestic investors. The misallocation of resources, driven by corrupt practices, reduces the effectiveness of investments and hinders development. Corruption also weakens the enforcement of laws and regulations, undermining legal protections and creating uncertainty. This erosion of public trust in institutions discourages investment and stifles entrepreneurship, particularly affecting small and medium enterprises that may lack the resources to navigate corrupt practices. As a result, addressing corruption is essential to attract and sustain investments, which are vital for Nigeria's economic progress.

III. Foreign Investment

Foreign investment is crucial for a country's development, involving capital flows from one nation to another, giving foreign investors substantial ownership in domestic companies and assets. This enables them to influence business strategy and participate actively in management. The trend towards globalization sees multinational firms investing in various countries.¹⁷ Foreign direct investment (FDI) encompasses long-term investments, such as establishing plants or purchasing buildings in a foreign country, as well as corporations, financial institutions, and private investors buying shares in foreign companies listed on foreign stock exchanges. FDI is widely viewed as a catalyst for economic growth, which is essential for a country's overall development if managed well and based on globally accepted practices.

15 *Bamgbose* (n7) 110

16 *Asokan Nirmalarajah*, "Understanding Investment: Definition and Basics" <<https://agicap.com/en/glossary/inevstment-defintion/>> accessed May 10 2024.

17 *James Chen*, "Foreign Investment: Definition, How it works and Types", (October 26, 2020), <<https://www.investopedia.com/terms/f/foreign-investment-asp/>> accessed May 10, 2024.

FDI is a vital source of external funding for developed, transitioning, and developing economies, characterized by at least a 10% equity investment and a long-term management interest. According to Omodero Cordelia, FDI fills critical gaps in developing countries by providing investment funds, foreign currency, and tax revenues for the government. The inflow of FDI is influenced by macroeconomic variables and institutional quality, including corruption control and the rule of law.¹⁸ Studies indicate that countries with robust regulatory frameworks attract more FDI, while those with weak legal structures deter foreign investors due to the lack of safeguards for their investments.

There are schools of thought and opinions divided in the relationship between corruption and FDI inflows. Some have found support for the ‘helping hand’ theory of corruption where it is believed that corruption enhances FDI inflows in countries with weak governance structure¹⁹ while others believe that corruption increases transaction cost and reduces investment returns.²⁰

The Corruption Perception Index, utilized by Transparency International, ranks countries based on the level of authority misuse for personal gain within government institutions and the integrity of those in power.²¹ In countries with high-profile corruption, such as Nigeria, government bureaucracy often facilitates corruption, with the legislative arm contributing significantly to this issue.²² Corruption permeates almost every aspect of Nigeria's economy, negatively impacting both foreign and local investments and becoming a common aspect of business transactions.²³ The next section will explore the legal framework and measures addressing corruption and their impact on investments in Nigeria.

D. Legal Framework on anti-corruption in Nigeria

Nigeria has made significant progress in regulating corruption through various laws, such as the Independent Corrupt Practices and Other Related Offences Act of 2020, the Economic and Financial Crimes Commission Act of 2004, the Code of Conduct Bureau and

- 18 *Omodero Cordelia Onyinyeche*, ‘Effect of Corruption on Foreign Direct Investment Inflows in Nigeria’, *Studia Universitatis, Vasile Goldis Arad. Economic Series* (2019), 29 (2) 54 - 55, <<https://Doi/102478/sues-2019-0008>> accessed 11 May, 2024.
- 19 *Bayar Y and Alabarov N*, ‘Corruption and Foreign Direct Investment Inflows in emerging market economies’, *EcoForum* (2016) 5 (2), 47.
- 20 *Gasanova A, Medvedev AN and Komotsky E.I.* “The assessment of corruption impact on the inflow of foreign direct investment”, AIP Conference Proceeding (June 2017), 1836(1):020011, <<https://doi.org/10.1063/1.4981951>>accessed 10 May 2024.
- 21 *Raluca E.L.* “Connections between FDI corruption index and country risk assessments in central and Eastern Europe”, *Procedia economics and Finance* (2015) 32 626-633.
- 22 *Erhieyovwe E.K. Onokero I.I.* ‘Corruption Foreign Direct Investment and Institutional Quality: Some Empirical evidence and its Impact on exchange rate of the Nigerian economy’, *Mediterranean Journal of Social Science* (2013) 4(3) 345-350.
- 23 *Omodero C. O., Danago K.I.*, “Corruption and Stock Market Performance in Nigeria”, *Annals of Spiritual University Economics Series*, Issues 2018, 23-40.

Code of Conduct Tribunal Act of 1991, and the Money Laundering Act of 2022. These laws empower relevant agencies to investigate and prosecute individuals and organizations involved in corrupt practices, enhancing transparency in public life. Despite these efforts, challenges remain in enforcement, political interference, and the lack of institutional capacity. Nevertheless, the Nigerian government continues to strengthen anti-corruption initiatives and collaborates with international partners to promote accountability and repatriate stolen funds. Addressing corruption is crucial for creating a conducive environment for sustainable development, attracting foreign investment, encouraging local development, and improving citizens' well-being. This section evaluates the relevant laws and institutions combating corruption, highlighting their effectiveness and challenges.

I. The Economic and Financial Crimes Commission (EFCC) Act 2004

The EFCC Act²⁴ is an important piece of legislation in Nigeria that was enacted to combat economic and financial crimes in the country.²⁵ The Act empowers the EFCC to investigate prevent, prosecute and penalize economic and financial crimes. The functions of the commission are articulated in section 6 of the Act. These include:

- (b) ...The investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam etc.,
- (c) the coordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;
- (d) the adoption of measures to identify, trace, freeze, confiscates or seize proceeds derived from terrorist activities, economic and financial crime related offences or the properties the value of which corresponds to such proceeds;
- (e) the adoption of measures to eradicate the commission of economic and financial crimes;
- (f) the adoption of measure which include coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes...²⁶

They are also to collaborate with government bodies both within and outside Nigeria in carrying on functions wholly or in part analogous with those of the Commission concerning.²⁷

- i. The identification, determination of the where about and activities of persons suspected of being involved in economic and financial crimes;

24 The Economic and Financial Crimes Commission (EFFC) Act 2004 herein-after EFCC Act.

25 The EFCC Establishment Act was first enacted in 2004 and amended in 2004. The Act commissions the EFCC to combat economic and financial crimes, thereby enabling the Commission to prevent, investigate, prosecute, and penalize economic and financial crimes.

26 Section 6(b) – (f) EFCC Act 2004.

27 Section 6(1) (i)-(vi) Act 2004.

- ii. The movement of proceeds or properties derived from the commission of economic and financial and other related crimes;
- iii. The exchange of personal or other experts;
- iv. The establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and person involved;
- v. Maintain data, statistics, records and report on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes;
- vi. Undertaking research and similar work with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.

The Commission has special power to cause investigation to be conducted as to whether any person, corporate body or organization has committed any offence under this Act or Other laws relating to economic and financial crimes,²⁸ cause investigation to be conducted into the properties of any person if it appears to the Commission that the person's lifestyle and extent of the properties are not justified by his source of income.²⁹

The EFCC has substantial authority to seize assets, freeze accounts, and prosecute offenders, fostering a comprehensive approach to combating financial crimes.³⁰ Empowered by the Act, the EFCC collaborates with other law enforcement agencies and international organizations to address financial crimes beyond Nigeria's borders,³¹ as outlined in section 6(1). Since its inception, the EFCC has faced challenges but has also achieved significant successes. Within two years, it investigated and prosecuted numerous corruption cases, recovering \$2.2 billion.³² In 2013, it recovered over N11 billion, \$2 million, and 45,000 pounds from corruption-related crimes, and has since initiated 3,000 probes, recovering N60 billion. The new EFCC boss, Ola Olukoyede, reported recovering N60 billion and \$10 million in less than four months in 2023.

The EFCC is currently prosecuting former governor Yahaya Bello and his aides on 19 counts of money laundering amounting to N80.2 billion. As of May 10, 2024, the court

28 Section 7 (a) EFCC Act 2004.

29 Section 7 (b) EFFT Act 2004.

30 *Oyelola Muyiwa Atoyebi*, 'Assessing the implementation and impact of anti-corruption and impact of anti-corruption-laws-in-Nigeria:,<<https://lawparillion.com/blog/assessing-the-implementation-and-impact-of-anti-corruption-laws-in-nigeria/amp>> accessed March 1, 2024.

31 *Matthew Ekundayo et. al.*, 'Corruption Dynamics and Economic Growth in Nigeria', (Oct 1, 2022), <<https://www.intechopen.com/chapters/83925>>, <<https://doi:10.5772/intechopen.105713>>, accessed May 10 2024. See also Raimi L, Suara IB and Fadipe A.O, "Role of Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices and other related Offences Commission (ICPC) at ensuring accountability and Corporate Governance in Nigeria", *Journal of Business Administration and Education* (2013) 3 (2) 54-78.

32 *Ojuroungbe Sodiq*, "EFCC to probe over 3,000 financial crimes, recovers N60bn (25 February 2024), <<https://www.punch.com/EFCC-to-probe-over-3000-financial-crimes-recover-n60bn/?amp>> accessed 11 May 2024.

mandated Bello's presence for arraignment, with the trial adjourned to June 13, 2024. The EFCC conducted over 2,000 investigations in 2013, prosecuting 485 cases and securing 117 convictions. In 2022, the agency secured 3,785 convictions, a 70.5% increase from 2021, and achieved a 98.93% success rate, losing only 41 cases.³³

1. Set back of activities of EFCC

Despite the successes of Nigeria's anti-graft agency, the EFCC, its efforts are often hampered by political interference. This is evident in the slow pace of trials and the lenient punishments for corruption,³⁴ undermining the agency's effectiveness. According to Idris, the EFCC lacks sufficient autonomy and funding to combat corruption effectively. Many Nigerians see the agency and the anti-corruption efforts as superficial, given the ongoing litigation involving political office holders and high-profile individuals. Political interference is a significant challenge, with cases involving politicians, especially former governors or ministers, often being deliberately obstructed.³⁵ Convicted individuals frequently avoid punishment and continue to serve in government roles, entrenching corruption further.

The EFCC's lack of autonomy is another major issue, as it is answerable to the presidency. The agency's head and budget require Senate and presidential approval, allowing the executive to influence investigations and prosecutions.³⁶ The presidency has been accused of using the EFCC to target political enemies.³⁷ The judiciary also hampers the EFCC's efficiency, as seen in cases like the Assistant Director of the Nigerian Pension Commission, who was fined only N250,000 for stealing N32 billion, and the Bayelsa State governor, who received a presidential pardon for corruption charges in 2013.

33 EFCC, '2022 Conviction Records: EFCC secures 3785 convictions in 2022', <<https://www.efcc.gov.ng/efcc/news-and-information/news-release/8781-efcc-secures-3785-convictions-in-2022/>> accessed 11 May 2024.

34 Idris Ahmed Jamo, "Economic and Financial Crimes Commission (EFCC) and Anti-Corruption Crusade in Nigeria: Success and Challenges", *Gusau Journal of Management and Social Sciences*, *Federal University of Gusau* (2021) 4(2) 187-199

35 An example that readily presents itself is the case involving some ex-governors. Out of 31 former governors prosecuted since 1999, only 3, Joshua Dariye, Jolly Nyame and Oji Uzor Kalu were recently convicted and jailed. Orji Uzor Kalu's trial and convictions were quashed by the Supreme Court in May 2020. Shortly before former President Muhammadu Buhari left office in 2023, he pardoned Dariye and Nyame on health and age grounds when they still have several years to complete their jail terms. See *Bisi Abidoye*, "Buhari Pardons ex-Governors Dariye, Nyame serving jail terms for corruption; 157 others", (April 14 2022), <<https://www.premiumtimesng.com/news/headlines/523946-buhari-pardons-ex-govern-dariye-riyame-servivng-jail-terms-for-corruption-152.others.html>> accessed May 11, 2024.

36 In 2017, the EFCC presented a list of 135 corrupt candidate for disqualification in a bid to stop them from contesting the 2017 elections. The list was discredited and considered as an effort to hurt the political opponents of the president.

37 *Omolaye Sodiq* "CSO's Warn EFCC against Political Witch-Haunting" (March 19, 2024) *The Guardian* (Lagos) <<https://www.guardianng/news/nigeria/csos-warn-efcc-against-political-witch-haunting/>> accessed May 11, 2024

Organizational inefficiencies further limit the EFCC's capacity. Annual reports from 2013 and 2015 highlighted a lack of officer training as a significant challenge, though a training school has since been established to address this.³⁸ Additionally, the agency suffers from inadequate funding, which is crucial for its effectiveness. Addressing these challenges is essential for the EFCC to fulfill its mandate.

2. Independent Corrupt Practices and other Related Offences Commission (ICPC) Act 2000

Another important legislation enacted for combating corruption in Nigeria is the Independent Corrupt Practices and Other Related Offenses Commission (ICPC) Act 2000.³⁹ The Act empowers the agency to investigate and prosecute corrupt-related offenses within the public sector.⁴⁰ The framework for the operation of the ICPC is established by the Act. It grants the Commission powers to arrest⁴¹ seize assets,⁴² prosecute corruption offences in public and private sectors. The ICPC Act of 2000 as noted earlier supports the operation of the Commission. The Commission was created with the aim of reducing or completely eradicating corruption in Nigeria. The independence of the ICPC is guaranteed by section 3(14) of the Corrupt Practices and other Related Offences (CPRO) Act, which was passed and signed into law in June 2000. The section provides, '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'.⁴³ This independence under section 3(14) of the CPRO Act allows operational independence in running the affairs of the Commission.

The Independent Corrupt Practices and Other Related Offences Commission (ICPC) focuses on three main areas: prevention, enforcement, and raising public awareness about corruption in the country. The ICPC has adopted a strategy that actively involves citizens in combating corruption⁴⁴ by engaging civil servants in its anti-corruption efforts through the establishment of Anti-Corruption and Transparency Units (ACTU) within various Ministries, Departments, and Agencies (MDAs).⁴⁵ These units have played a significant role in identifying corruption cases, such as the review conducted by the ACTU in the Ministry of Niger Delta Affairs, which led to the recovery of N209 billion that had been misappropriated.

38 EFCC's Annual Reports 2013 and 2015.

39 Hereinafter ICPC Act.

40 Section 27-41 ICPC Act.

41 Section 28-29 ICPC Act.

42 Section 37 ICPC Act.

43 Section 3 (14) ICPC Act.

44 Section 6 (a)-(f) ICPC Act.

45 *Idayal Hassan* "The EFCC and ICPC in Nigeria: Overlapping Mandates and Duplication of Effort in the Fight Against Corruption", Anti-Corruption Evidence Working Paper 038, 2.

While the ICPC focuses on prosecuting corruption within the public sector, such as cases of bribery, abuse of power, and the diversion of public funds, the Economic and Financial Crimes Commission (EFCC) targets a broader spectrum of corruption. The EFCC addresses issues involving individuals living beyond their means, as well as those linked to internet fraud or advance fee fraud.⁴⁶ However, the overlap in functions between the ICPC and EFCC has led to concerns that the creation of the EFCC may represent a duplication of roles already performed by the ICPC.

In the field of investigation, the EFCC and ICPC are vested with special powers to investigate whether any person, corporate body or organization has committed an offence under the relevant Act or other laws relating to economic and financial crimes. They are also empowered to investigate a person's assets if it appears that their lifestyles and extent of assets are not justified by their source(s) of income. Generally, both the ICPC and EFCC can investigate any person on issues related to corruption.⁴⁷

The power of the ICPC to investigate corruption and other related offences are set out under section 6(a) of the Act thus:

Where reasonable ground exists for suspecting that any person has conspired to commit or has attempted to commit or has committed an offense under this Act or any other law prohibiting corruption, to receive and to investigate any report of the conspiracy to commit, attempt to commit or the commission of such offense and, in appropriate cases to prosecute offenders.⁴⁸

A. similar provision is contained in the EFCC Act. The EFCC Act provides that the functions of the Commission include:

... the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfer, future market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam etc.⁴⁹

The above provision shows that both the ICPC and EFCC have power to investigate corruption and economic and financial crimes. There's certainly an overlap in the interest and execution of the two agencies duties.⁵⁰

Again, both ICPC and EFCC are empowered to prosecute persons suspected to have been involved in corruption or have committed economic and financial crimes. Here, there is also an overlapping mandate too. As observed, Section 6(a) of the Corrupt Practices and other Related Offences Act empowers the ICPC to investigate and prosecute corrup-

46 *Ekundayo* (n31) 6.

47 *Akpoghome, T.U. and Nwano, T.C.* 'The Collaboration of Investigative Authorities in Nigeria-Current Issues and Challenges', *International Journal of Law*, (2017) 3(4) 39-48.

48 Section 6(a) ICPC Act.

49 Section 6 (b) EFCC Act.

50 *Idayal* (n45) 4.1.

tion cases.⁵¹ Section 6(m) of the EFCC Act assign the following responsibilities to the commission: taking charge of supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offences connected with or relating to economic and financial crimes.⁵² By empowering EFCC to coordinate all investigation and prosecution of economic crimes including corruption simply suggests that their functions cover cases investigated by the ICPC. However as seen from the ICPC Act, the ICPC is independent and not subject to any person or authority⁵³ in the exercise of its duties therefore, its work cannot be coordinated by the EFCC.

The overlap in legal mandates between the ICPC and EFCC has led to situations where both agencies, along with the Police and the Department of State Services (DSS), simultaneously investigate the same cases. This redundancy has resulted in multiple petitions being filed with these agencies by the public, creating conflicts and wasting resources that could have been conserved if the roles of each agency were more clearly defined. To enhance effectiveness, accountability, and transparency, it is essential to streamline the functions of these agencies so that the public is aware of which body is responsible for arresting and prosecuting corruption cases.

Although conflicts may not be entirely eliminated, it is important to note that these agencies have made efforts to collaborate and utilize each other's legal provisions. For instance, the ICPC has successfully used Section 17 of the Advance Fee Fraud Act to recover assets through the 'non-conviction process,' a law typically enforced by the EFCC.⁵⁴ Similarly, the EFCC has charged defendants under the Corrupt Practices and Other Related Offences (CPO) Act of 2000. Both the ICPC and EFCC have the authority to identify, seize, and freeze assets acquired through corrupt practices or economic and financial crimes. The EFCC Act specifically grants the Commission the power to implement measures to identify, trace, freeze, confiscate, or seize proceeds derived from terrorist activities, economic and financial crimes, or properties equivalent in value to such proceeds.⁵⁵

On the other hand, the ICPC Act also provides that:

if in the course of an investigation into an offence under this Act, any officers of the Commission have reasonable grounds to suspect that any moveable or immovable property is the subject matter of an offence of evidence relating to the offence he shall seize such property.⁵⁶

Nigerian law allows for the seizure of assets that are linked to the proceeds and tools of illegal and criminal activities, both within the country and abroad. An examination of the

51 Section (6) (a) ICPC Act.

52 Section 6 (m) EFCC Act.

53 Section 3 (14) ICPC Act.

54 Section 17 Advance Fee Fraud and Other Related Offences Act. 2006. Section 17 is titled 'Power to make an order of forfeiture without conviction for offence'.

55 Section 6 (d) EFCC Act.

56 Section 37(1) ICPC Act.

ICPC Act reveals that Sections 36-41, 44, 46, and 49-50 authorize the ICPC to identify, trace, and seize such assets. Similarly, Sections 6(d), 26, and 34 of the EFCC Act grant the EFCC the same powers. Notably, Sections 47 of the Corrupt Practices and Other Related Offences (CPO) Act and Section 17 of the Advance Fee Fraud Act do not require a conviction for asset seizure.

The requirements for these offenses are detailed in Section 25 of the EFCC Act, but they are not addressed in the CPO Act. It is crucial to consider provisions regarding the lawful origin and acquisition of the alleged proceeds, as outlined in Section 7(b) of the EFCC Act and Section 44(2) of the ICPC Act. Both the EFCC and ICPC also have advisory roles, tasked with providing recommendations to the government or its agencies on measures to combat corruption. Section 6(vi) of the EFCC Act specifies that one of the powers of the EFCC is to:

...Undertaking research and similar works with a view to determining the manifestation, extent magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.

Similarly, the CPO Act lists the function of the ICPC to include the following:

- (c) ...to instruct, advise and assist any officer, agency or parastatals on ways by which fraud or corruption may be eliminated or minimized by such officer, agency or parastatal;
- (d) to advise heads of public bodies of any changes in practices, system or procedures compatible with effective discharge of the duties of the public bodies as the Commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences.⁵⁷

A better approach would have been the setting up of a special committee made up of officers from both agencies that will be charged with the responsibility of evaluating the step to be suggested by both agencies and streamline same before such advisory opinions are pushed to the government. This will ensure that there is synergy between the two agencies.

Furthermore, the definition of ‘public officers’ under the CPO Act is expansive and bestows on the ICPC the powers to prosecute public officers. The CPO defines a public officer to mean:

a person employed or engaged in any capacity in the public service of the federation, state or local government, public corporation or private company wholly or jointly floated by any government or its agency including the subsidiary of any such company whether located within or outside Nigeria and includes judicial officers serving in Magistrate, Area or Customary courts or tribunals.⁵⁸

57 Section 6 (c) (d) ICPC Act.

58 Section 2 ICPC Act.

Appointed or elected officials and members of parliament are also captured within the definition. The CPRO Act applies to persons within and outside Nigeria. It provides:

The provision of this Act shall, in relation to citizens and person granted permanent residence in Nigeria, have effect outside as well as within Nigeria, and when an offence under this Act is committed in any place outside Nigeria by any citizen or persons granted permanent residence in Nigeria, he may be dealt with in respect of such offence as if it was committed at any place within Nigeria⁵⁹...

The Commission shall have the power to engage the service of INTERPOL or such local or international institution, body or persons possessing special knowledge or skill on the tracing of properties or detention of cross border crimes.⁶⁰

These mechanisms have helped the work of the Agencies tremendously as they have been able to trace and arrest persons suspected of corruption that have escaped from Nigeria and living abroad. They have also been able to repatriate funds laundered in foreign financial institutions.

3. The Code of Conduct Bureau and Tribunal Act, 1991

The Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT) Act of 1991 were established to promote ethical conduct and accountability among public officers in Nigeria. The Act's primary purpose is to maintain high standards of public morality in government operations and to ensure that the actions and behavior of public officers align with the highest standards of morality and accountability.⁶¹

The Act designates the CCB as an investigative body responsible for receiving asset declarations from public officers, as required by law. The Bureau is tasked with examining these declarations to ensure they meet the Act's requirements and any other relevant laws. It is also responsible for retaining custody of the asset declarations and addressing complaints regarding non-compliance or breaches of the Act. When deemed necessary, the Bureau refers such complaints to the Code of Conduct Tribunal (CCT),⁶² established under Section 20 of the Act, as outlined in Sections 20 and 25. However, if the individual in question submits a written explanation addressing the breach or non-compliance, the Act states that a referral to the tribunal may not be required.

The CCT has the power to impose sanctions including removal from office, fines, and disqualification from holding public position.⁶³ A close scrutiny of the functions of the these bodies reveal that the CCB focuses on investigating and documenting asset

59 Section 66 (1) ICPC Act.

60 Section 66 (3) ICPC Act.

61 CCB, 'About US-CCB', <https://ccb.gov.ng?page_id=208> accessed May 11 2024.

62 As a judicial body with the responsibility of adjudicating cases of breaches of the code of conduct by public officer. See: Section 20(1) Code of Conduct Bureau and Tribunal Act, 1991.

63 Section 23(1) Code of Conduct Bureau and Tribunal Act, 1991.

declarations, while the CCT plays the primary role of adjudicating cases brought before it by the CCB. The CCB functions as administrative body while the CCT is a quasi-judicial organ. Both the CCB and the CCT play very prominent roles in ensuring transparency and accountability in public office, ensuring that public officer maintain a high standard of conduct.

4. Money Laundering (Prevention and Prohibition) Act, 2022

This Act is an important legislation from the government of Nigeria enacted to combat the ever-increasing cases of money laundering going on in the country. The Money Laundering Act strengthened the regulatory framework against money laundering and put Nigeria on the same pedestal required by international standard. It introduced measures to identify, prevent and punish money laundering offences.⁶⁴ It expanded the definition of money laundering to include the proceeds of illegal activities and imposed stringent penalties, imprisonment and exemplary fines to discourage potential offenders.⁶⁵ The Act also provides that the EFCC is the primary enforcement agency responsible for investigating and prosecuting money laundering cases.⁶⁶ This centralization of efforts streamlined the anti-money laundering process and enhanced coordination among relevant authorities.⁶⁷

The discussion above represents the domestic regulatory framework on anti-corruption. Nigeria has also put in place other mechanisms on anti-corruption war and some of the mechanisms are examined hereunder.

5. Regional and International Laws

a) African Union Convention on Preventing and Combating Corruption 2003

The African Union (AU) on the 11 July 2003 at Maputo, Mozambique in its 2nd ordinary session of the Assembly of the Union adopted the African Union Convention on Prevention and Combating Corruption.⁶⁸ The convention entered into force on 5th August 2006 and Nigeria ratified the Convention on September 2006 and deposited the instrument of ratification on 29th December 2006. By virtue of this act, Nigeria became a state party to the

64 Section 18, Money Laundering (Prevention Prohibition) Act 2022.

65 Section 18 and 22 ibid.

66 Section 17 (1). It provides: 'there is established a department under the economic and financial crimes commission to be known as the Special Control Unit Against Money Laundering (The SCUML) which shall be responsible for the supervision of designated non-financial business and professions in compliance with the provision of the Act, relevant laws and applicable regulation.

67 *Oyelola Muyiwa Atoyebi*, 'Assessing the implementation and impact of anti-corruption and impact of anti-corruption-laws-in-Nigeria., <<https://lawparillion.com/blog/assessing-the-implementation-and-impact-of-anti-corruption-laws-in-nigeria/amp>> accessed March 1, 2024.

68 AU, 'African Union Convention on Preventing and Combating Corruption', <<https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption>> accessed May 9, 2024.

convention. The objectives of the convention are well articulated under Article 2 and they include inter-alia:

To promote and strengthen the development in Africa by each State Party, of mechanism required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors;

Promote, facilitate and regulate cooperation among the State Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa.⁶⁹

Coordinate and harmonize the policies and legislations between State Parties for the purpose of prevention, detection, punishment and eradication of corruption on the continent.⁷⁰

By the above provision State Parties are encouraged to develop mechanism to prevent, punish and eradicate corruption in public and private sectors, facilities cooperation among States in establishing measures to combat corruption in Africa and the coordination and harmonization of policies and laws between the State Parties in order to prevent, detect, punish and eradicate corruption in the continent. The scope of application of the Convention is contained in Article 4⁷¹ which defines acts of corruption. State Parties are encouraged to adopt legislative and other national measures in the fight against corruption.⁷² They are to maintain and strengthen independent national anti-corruption authorities or agencies.⁷³ Of part particular interest is the provision encouraging the strengthening of national control measures to ensure that the setting up and operations of foreign companies in the territory of a State Party shall be subject to the respect of the national legislation in force.⁷⁴

State Parties are further mandated to adopt legislative and other measures as may be necessary to establish as criminal offences the laundering of this proceeds of corruption.⁷⁵ Furthermore, State Parties to the Convention are required to eradicate corruption and related offences in the public service. Consequently, they are mandated to require all or designated public officials to declare their assets at the time of assumption of office, during and after their term of office in the public service.⁷⁶

Furthermore, they are to create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation and sensitize and train public

69 AU Convention on Corruption, Article 2(1) (2).

70 *Ibid*, Article 2 (3).

71 Article 4(a) – (1).

72 Article 5(1) – (8).

73 Article 5(3) Nigeria in Establishing the EFCC did not follow this prescription as the main challenges of EFCC is lack of independence from the executive.

74 Article 5(2) *Ibid*.

75 Article 6(a)-(c) *Ibid*.

76 Article 7(1) *Ibid*.

official on matters of ethics.⁷⁷ With regard to assets declaration before assuming public office, Nigeria has ensured that the practice is established but there are no corresponding efforts to ensure that the practice is tenaciously upheld or to mandate public official leaving office to also declare their assets. We believe that declaration of asset after office is more important than a declaration before assumption of office. This is where Nigeria has to put in more effort because public officials in Nigeria amass wealth using their offices. There should be better accountability and transparency in this regard.

b) United Nations Convention Against Corruption 2004

The purpose of this Convention is ‘to promote and strengthen measures to prevent and combat corruption more efficiently and effectively; to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption including in asset recovery; and to promote integrity, accountability and proper management of public affairs and public property’.⁷⁸ The Convention applies in accordance with its terms to the prevention, investigation and prosecution of corruption and to the freezing, seizures, confiscation and return of the proceeds of offences established in Convention and the implementation of the Convention will not result in damage or harm to State property.⁷⁹

The Convention safeguards the sovereignty of State Parties and the territorial integrity of States and that of non-intervention in the domestic affairs of other states.⁸⁰ State parties are mandated to put in place preventive anti-corruption policies and practices by developing and implementing effective anti-corruption policies that promote management of public affairs and public property, integrity, transparency and accountability.⁸¹ Additionally, State Parties must in accordance with its legal system, ensure the existence of a body or bodies that prevent corruption.⁸²

Nigeria has done well in this regard by putting in place mechanisms, laws and agencies saddled with the responsibilities of implementing the anti-corruption policies as well as disseminating knowledge about the prevention of corruption.⁸³

77 Article 7(2) *Ibid.*

78 Article 1(a)-(c) UN Convention Against Corruption 2004, <<https://www.undoc.org/documents/brusse-un-convention-against-corruption.pdf>> accessed March 1, 2024.

79 Article 3(1)(2) *Ibid.*

80 Article 4(1)(2) *Ibid.*

81 Article 5(1)(4) *Ibid.*

82 Article 6(1)-(3) *Ibid.*

83 There is the ICPC, EFCC, CCB and CCT. These agencies have laws they enforce and implement in addition to preventing money laundering which is prohibited by a regulatory framework.

E. Other measures Nigeria has implemented to address corruption and attract investment to Nigeria

I. Organization for Economic Cooperation and Development (OECD):

These particular initiatives are aimed at promoting transparency in resources rich sectors. The OECD was primarily enacted to provide a level playing field for companies active on the international market. Companies originating from a country where bribery of foreign public officials was criminalized felt they were facing competitive disadvantage for accessing international markets compared to their counterparts from countries where foreign bribery was not criminalized.⁸⁴ Other reasons that led to the development of the OECD Convention for combating bribery includes the recognized increase in corruption globally, heightened public awareness of it, the perceived weakening of major arguments against taking anti-corruption action multilaterally, and a growing sense that unilateral measures could sometime have limited impact.⁸⁵

The purpose of the effort was to organize effective cooperation between the principal actors in the international economy. That cooperation, building a consensus based on shared objectives, would work to promulgate an effective legal instrument containing reciprocal and comparable legal commitments to combat transactional bribery.⁸⁶ Becoming a member of this initiative is an indication that Nigeria is willing to be involved in international business and allow foreign investments to thrive by abiding by the ethical standards enshrined in the Convention.⁸⁷

⁸⁴ OECD, 'Information Sheet on the OECD Convention on combating bribery of foreign public officials in International Business Transaction', <<https://www.oecd.org/governance/ethics/240652.pdf>> accessed May 11, 2024.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ In 2008, the OECD and the African Development Bank (AfDB) launched a partnership to support African Government in their efforts to fight bribery and corruption. Twenty-one (21) African countries are members of the joint initiative: Benin, Burkina Faso, Cameroon, Ethiopia, Ghana, Kenya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra-Leone, South Africa, Tanzania, Uganda and Zambia. This joint initiative helps African countries in their fight against the bribery of public official in business transactions and to improve corporate integrity and accountability, while promoting growth through an environment conducive to attracting foreign investments. The overall objectives of the joint initiative are to increase the capacity for effective anti-bribery enforcement, support international anti bribery efforts, enhance public and private sector integrity and contribute to transparent and accountable business conduct in Africa. Following the adoption of the OECD/AfDB Anti-bribery and business integrity course of action 2011, joint initiative member countries requested more tools to assist with implementing the course of action through practical guidance on preventive measures tailored to the bribery risk confronting African companies. Member countries also highlighted the continued need for awareness raising of anti-bribery compliance measures among private sector, which is largely comprised of SMEs with limited resources and access to information. See Business Integrity and Anti-bribery efforts in Africa: OECD/AfDB Initiative <<https://www.oecd.org/corruption/business-integrity-and-anti-bribery-efforts-in-africa/oecd-african-initiative.htm>> accessed March 1, 2024.

II. The Extractive Industries Transparency Initiative (EITI)

The Extractive Industries Transparency Initiative (EITI) is an international, multi stakeholder initiative that promotes transparency and accountability in the oil, gas and mining sectors through the disclosure of government and company data in resources rich countries. The essence of the initiative is to ‘provide transparency of information along the entire chain of decisions’. To be EITI compliant, participating countries must meet a minimum set of standards that deal with the quality of reporting and the multi-stakeholder process used to create reports verified through a validation process. In 2013, the EITI expanded to require disclosure of information throughout the decision-making chain. It was previously focused on revenues paid to be national government. The EITI is at the forefront of the movement for transparency and accountability in extractive resources management. It begins with licenses and contracts, monitoring production, tax collection, revenue distribution, and expenditure management.⁸⁸ Over 50 countries including Nigeria have committed to strengthening transparency and accountability of their extractive sector management by implementing the EITI standard.⁸⁹ The EITI standard is made up of two chapters as at 12 June 2023 and they are chapter one-implementation of EITI standard and chapter two, governance and management.⁹⁰

It is not surprising that Nigeria is a member of this initiative as her economy is largely dependent on the extractive industries. The Nigeria Extractive Industries Transparency Initiative (NEITI) is the national chapter of the global Extractive Industries Transparency Initiative (EITI) mandated by Law⁹¹ to promote transparency and accountability in the management of Nigeria’s oil, gas and mining revenues.⁹² Oil which is the mainstay of the economy was discovered in commercial quantity at Oloibiri in the present Bayelsa State in the Niger Delta region of Nigeria in 1956. According to the Organization of the Petroleum Exporting Countries (OPEC), Nigeria has the world’s tenth largest crude oil reserves and is the world’s thirteenth largest producer of crude oil and the largest in Africa.⁹³ The oil sector contributed 6.63% to the total real GDP in Q1 2022, down from the figures recorded in the corresponding period of 2021 and up compared to the preceding quarter where it

88 National Resources Governance Institute, ‘The Extractive Industries Transparency Initiative (EITI): Using EITI to Promote Policy Reform’, *The EITI Standard* (2013) <https://www.eiti.org/cites/eng_lish_EITI%20STANDARD_11July_0.pdf> accessed May 11, 2024.

89 EITI, ‘Countries’, <<https://www.eiti.org/countries>> accessed May 13 20024.

90 EITI, ‘EITI Standard 2019’, <<https://eiti.org/colletion/eiti-standard-2019>> accessed May 13, 2024.

91 The NEITI Act 2007.

92 NEITI, ‘Nigeria Extractive Industries Transparency Initiative’, <<https://www.neiti.gov.ng>> accessed June 7, 2024.

93 UNEP, ‘Ogoniland’s oil history’, <<https://www.unep.org/topics/disasters-and-conflicts/country-pre> sence/Nigeria/ogonilands-oil-history/> accessed May 13, 2024.

contributed 9.25% and 55.19% respectively. By Q1 2023, it was 6.21% and Q2 2023 it fell to 5.34%.⁹⁴

Sadly, Nigeria has not paid due attention to other important sectors of the economy such as the mining industry and the agricultural sector. Proceeds from crude oil sales have been characterized with corruption, diversion and reckless spending.⁹⁵ Most of the foreign investment in Nigeria centres around the oil and gas sector and investors need to be assured that their investments are protected hence the several mechanisms adopted by Nigeria to protect investments against corruption.

The discussion will rather be incomplete without a word on the mechanisms adopted to stamp out corruption in Nigeria.

III. Anti-Corruption Mechanisms

Several anti-corruption mechanisms have been adopted by Nigeria in a bid to end the scourge of corruption. While some may have worked albeit in minor terms some have been paid lip service to without any will on the part of government and relevant agencies to step up in the affected areas. Some of these mechanisms include: raising people's awareness on corruption, training and capacity building, enthronement of transparency and using the criminal justice system to ensure that offenders are adequately punished.⁹⁶ Corruption in Nigeria is likened to a dreaded virus that weakens and adversely affects her economy, judiciary, governance and human rights.

Corruption can be fought at different levels. It is a clarion call to raise people's awareness and consciousness of the dangers of corruption and its harmful effect on Nigeria. The awareness on the harmful effect of corruption on the economy of Nigeria and the country as a whole is known by every citizen but the greatest challenge lies in the fact that awareness campaigns not supported by other positive actions will yield no result. Awareness campaigns by the EFCC and the ICPC are on social media platforms, print and electronic media -Newspapers, radio and Television, schools, and work places aimed at educating the masses but has yielded little or no result.

Another mechanism is the training and capacity building undertaken by the relevant agencies but these are stalled for lack of adequate funding. The trainings can and should

94 *Doris Dokua Sasu* 'Contribution of Oil sector to GDP in Nigeria 2018-2023 Statista', <<https://www.statista.com/statistics/1165865/contribution-of-oil-sector-to-gdp-in-nigeria/>> accessed May 13, 2024.

95 *Matthew Ekuundayo Rotimi et. al.*, 'Corruption Dynamics and Economic Growth in Nigeria', (October 1 2022), <<https://doi/10.5772/intechopen.105713>> accessed May 10, 2024. See also Mshelia, James Duba and Anchor, J.R. "Political Risk Assessment by Multinational Cooperation in African Market: A Nigerian Perspective," *Thunderbird International Business Review* (2018) 1-11, <<https://doi.org/10.1002/tie.21964>> accessed March 1, 2024.

96 *Innocent Mwendo Tuyisenge*, 'Practical Mechanisms for rooting out Corruption', <<https://wwwblogs.worldbank.org/en/youth-transforming-africa/practical-mechanisms-rooting-out-corruption/>> accessed March 7, 2024.

target the politicians and government officials. This training must be directed at changing the mindsets and must cover anti-corruption laws and regulations, good governance practices, and ethical standards. Officers of the Agencies are trained, public servants are also trained but more action needs to be seen on the effects of the trainings.

Enthronement of transparency in public and private life is another key mechanism but lack of it provides a fertile environment for corruption to thrive. In Nigeria, public office holders are expected to declare their assets before assuming public office but on completion of their tenures there is no mandatory requirement to disclose their assets. This should be made compulsory because it is while in government that they amass wealth from stealing and other forms of corruption such as money laundering.

Punishing acts of corruption would be an effective mechanism to deter or discourage corruption by the actors and their cronies from continuing in the practice. Nigeria needs to strengthen its anti-corruption laws and regulations and allow the Commissions to work independently as this will help them in tracking down corruption in all sectors of our national life. The EFCC and ICPC have been doing quite a lot in this regard.⁹⁷ On June 7, 2024, a Federal High Court in Abuja issued an order of final forfeiture of all assets of a private university, NOK University located in Kaduna State to the Federal Government. The judgment was on an application for final forfeiture brought by the Economic and Financial Crimes Commission (EFCC), to which the court had in 2022 granted an interim forfeiture order in respect of the assets⁹⁸. But there are challenges such as the interference from the executive, the challenge of plea bargain and the granting of pardon to convicted politicians and ex governments officials who ought to have been allowed to serve their sentences.

Plea bargains are also detrimental to fighting corruption in Nigeria because it makes a joke of the entire process. For example, in a corruption case brought by the EFCC against Chief Lucky Igbinedion, a former governor, the accused was found guilty of stealing N3billion but was asked by the judge to pay N3million for stealing N25 billion.⁹⁹

Nigeria has also improved on international collaboration in anti-corruption programmes. Team-work in this regard is an essential tool in the battle against corruption. Nations can work together to prevent the proliferation of corrupt practices across borders.

97 *Ikhilae Eric*, 'Court orders permanent forfeiture of private university, other assets to Fed Govt', (June 7, 2024), <https://thenationonlineng.net/court-orders-permanent-forfeiture-of-private-university-other-assets-to-fed-govt/> accessed June 7, 2024.

98 *Ibid.* Also to be forfeited by Hassan, a former Director of Finance and Accounts (DFA) in the Federal Ministry of Health, are three other investments – Gwasmyen Water Factory, Gwasmyen International Hotel and Gwasmyen Event Centre all located in Kaduna. The physical assets of the university forfeited include Senate building, ICT building, Faculty of Medicine building, Science Deanery building, two Academic buildings, a Faculty Hall and other buildings. Justice Abdulmalik rejected the claim by Hassan and his company, KYC Inter-Project Limited that the school was built with funds sourced from other investors.

99 *Ibeh Nnenna*, 'Group slams Judge for fining Igbinedion N3million over N25bn theft', (May 2, 2015), <<https://www.premiumtimesng.com>> accessed June 8, 2024.

For instance, almost 40 nations have criminalized corporate bribery to obtain foreign business, following the OECD Anti-corruption Convention. Nigeria is also stepping up its efforts to combat money laundering, eliminating international avenues for hiding corrupt monies within secretive financial hubs. Strengthening joint measures on these fronts is crucial for effectively combating international corruption.

Improving diplomatic engagement and mobilizing foreign assistance resources are critical components of anti-corruption efforts. These collaborative activities contribute significantly to partner countries' determination and abilities to battle corruption, while also giving critical support to civil society and advocacy organisations. The state intends to improve its risk management standards and gain a better understanding of local socio-political and economic complexities. This strategy aims to maximize the effectiveness of anti-corruption initiatives.

F. Impact of Anti-Corruption Laws and Measures on Investments

The anti-corruption laws and initiatives/measures adopted by Nigeria have made positive impact on investments and businesses. These measures have encouraged foreign and domestic investors to engage in fair and transparent business practices. Investments are now more cautious about engaging in corrupt activities as the risk of legal consequences and damage to reputation has heightened.¹⁰⁰ The laws and other measures have led to more conducive business environment and attracted investments contributing to economic growth and development in Nigeria.¹⁰¹

Nigeria is known for its commitment to foreign direct investment, this is due to her participation in bilateral and multilateral agreements that she has engaged with over time to ensure the maximum legal protection for the investment brought by foreigners.¹⁰² In line with this, former president of Nigeria, President Muhammadu Buhari established the President Enabling Business Environment Council (PEBEC), an inter-government and inter-ministerial agency charged with the responsibility to remove bureaucratic bottle necks of doing business in Nigeria. These measures led to the enactment of the new Companies and Allied Matters Act of 2020 to aid the implementation of the ease of doing business and reforms in Nigeria for both Nigerians and foreigners.¹⁰³

A critical review of the laws and regulations and measures adopted by the government reveal that there is a consensus that Nigeria is committed to encourage and attract investments. Apart from anti-corruption laws and measures, there are initiative put together

100 *Thuyisenge*, (n96) 6.

101 *Dike Chinonso*, "Legal and Regulatory framework of foreign investment in Nigeria", (August 16 2021)1, <<https://www.linkedin.com/pulse/legal--regulatory-framework-foreign-investment-nigeria-michael/>> accessed May 11, 2024.

102 *Ibid.*

103 *Ibid.*

against non-commercial risks, expropriation and some positive incentive as tariff barriers and freedom of transfer of profits and capital.¹⁰⁴

Nigeria, Africa's largest economy, emerged from a recession with a 3.4% GDP growth rate in 2021, following a 1.9% contraction in 2020. While the International Monetary Fund (IMF) predicted growth rates below 3% for 2022 and 2023, the Nigerian Bureau of Statistics anticipated a more robust 4.2% growth in 2022.¹⁰⁵ Under former President Muhammadu Buhari, there was a strategic push to diversify the economy beyond oil and gas, focusing on building a competitive manufacturing sector, boosting agricultural output, and capitalizing on technological innovation.¹⁰⁶ With the continent's largest population, Nigeria remains an attractive market for investors, offering abundant natural resources and a low-cost labor pool.

However, despite government initiatives aimed at improving the business environment through enabling laws, foreign direct investment (FDI) inflows declined from around \$1 billion in 2020 to \$699 million in 2021. This drop reflects ongoing challenges that continue to affect investor confidence, even as the country strives to enhance its economic landscape.¹⁰⁷

Corruption is a serious obstacle to Nigeria economic growth and is often cited by domestic and foreign investors as a significant barrier to doing business. Nigeria's ranking in Transparency International 2021 corruption perception index fell slightly from its 2020 score of 149 out of 175 countries to 154 of 180 in 2021.¹⁰⁸ Business report shows that corruption by customs and port officials often lead to extended delays in port clearance processes and to other issues in importing goods.¹⁰⁹

Corruption has severely impacted investment in Nigeria, leading to reduced oil exports, higher import costs, an overvalued currency, and a costly fuel subsidy regime. The subsidy removal on May 29, 2023, has caused significant hardship, as petroleum products are crucial for daily life. This policy change, plagued by corruption and lacking a clear mitigation strategy, has led to rising fuel prices and unrest, despite Nigeria's large oil and gas reserves. Refineries remain non-operational despite previous investments. Moreover, businesses face difficulties due to limited access to foreign currency, further exacerbated by ongoing corruption. This creates significant challenges for both domestic and foreign enterprises operating in Nigeria.¹¹⁰

¹⁰⁴ *Ibid*

¹⁰⁵ United State Department of State, 'Nigeria –USDS: Investment Climate Statements', <<https://www.state.gov/reprints/2022-investment-climate-statement/nigeria/>> accessed May 13, 2024.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

The under developed power sector is a bottleneck to broad-based economic development and forces most businesses to generate a significant portion of their own electricity. Reform of Nigeria's power sector has been ongoing for over two decades with billions of naira spent with no tangible result.¹¹¹ Investor confidence continues to be weakened by regulatory uncertainty and limited domestic natural gas supply.¹¹²

Insecurity continues to remain a huge concern to investors in Nigeria due to violent crimes and kidnapping for ransom. There's terrorism in almost all parts of Nigeria despite the enactment of the anti-terrorism Act. The ongoing Boko Haram and Islamic State in West Africa (ISIS-WA) insurgencies have included attacks against civilian and military targets in the north east of the country.¹¹³ Criminal attacks on oil and gas infrastructure in the Niger Delta region that restricted oil production in 2016 have ceased, but a significant rise in illegal bunkering and oil theft has left the oil sector in a state of decreased output.¹¹⁴

In April 2023, the Nigerian Extractive Industries Transparency Initiative reported that Nigeria lost about 620 million barrels of crude oil, valued at \$46 billion, between 2009 and 2020. Illegal bunkering, conducted by a well-resourced and knowledgeable group, highlights serious issues of impunity and corruption. The country's weak legal framework exacerbates the problem.¹¹⁵ Until corruption is effectively addressed and offenders face severe penalties, investment prospects in Nigeria will remain problematic. Corrupt practices are linked to the lack of functional infrastructure needed for robust business environments, and while laws exist, implementation remains a significant challenge.

G. Challenges of the Legal Framework on Anti-Corruption

I. Weak and outdated regulatory framework

The EFCC and ICPC face significant challenges due to operating in a difficult environment, compounded by Nigeria's outdated legal system. Federal legislators must address these issues more effectively. It was only in 2011 that Nigeria's Evidence Act was amended to accept electronically generated evidence, and the Administration of Criminal Justice Act of 2015 aimed to expedite criminal trials and reduce delays caused by defense counsel. However, the anticipated improvements are yet to be realized, as corruption trials continue to face numerous adjournments due to suspects' absences and delays in proceedings. Some cases are even dismissed due to inadequate prosecution or lack of evidence.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Timothy Obieru*, 'Experts say talking corruption key to stopping Nigeria Crude Theft' (October 4, 2023), <<https://www.voanews.com/amp/experts-say-talking-corruption-key-to--stopping-nigerian-crude-oil-theft-/7296781.html>> accessed May 13, 2024.

¹¹⁵ *Ibid* - Statement of Faith Nwadiishi, Executive Director of the Centre for Transparency Advocacy.

II. Lack of Special Courts for Corruption Cases

The lack of specialized courts for corruption and financial crimes poses a significant challenge in Nigeria. Corruption cases are processed through regular courts, which are already burdened with numerous cases, leading to lengthy and often delayed proceedings. Despite having criminal courts across judicial divisions, trials can drag on for six years or more, largely due to the status of the accused or the influence of high-profile lawyers. For instance, in 2024, the EFCC charged former Kogi State Governor Yahaya Bello and others with misappropriating over N80 billion. Although the court has ordered Bello to appear for his plea, he has consistently failed to show up, and his whereabouts are unknown, making his arrest and arraignment difficult.

III. Government Interference in the Judicial Processes

As noted earlier, the EFCC chairman and the institution lack sufficient autonomy, as the President has the power to appoint and remove the chairman. This lack of tenure security undermines the Commission's effectiveness. The EFCC has also faced accusations of bias, allegedly focusing investigations and prosecutions on opposition figures while partnering with the ruling government. This has led some opposition members to switch to the ruling party to avoid prosecution. In contrast, the ICPC benefits from a more secure structure, with its chairman appointed by the President and confirmed by the Senate. The ICPC chairman can only be removed by the President with the approval of a two-thirds majority of the Senate, ensuring greater independence and stability for the institution.

IV. The Overlap of Function Leading to Rivalry

The overlap of functions leading to rivalry between the EFCC and ICPC revolves around the quest for relevance and leadership in the anti-graft fight in Nigeria. This trend has affected the focus of both Commissions in terms of the cases they are handling. There need to be a synergy between the Commissions for effectiveness in the fight against corruption.

V. Lack of Public Awareness and Participation

The effectiveness of anti-corruption laws in Nigeria hinges on public awareness, support, and engagement. Corruption is deeply entrenched in the public service and has become a pervasive issue, with many seeing it as an entitlement. To effectively combat corruption, it is crucial to raise awareness and ensure that public and private sector employees receive

a living wage. Adequate remuneration and assurance of safety are essential to garner the necessary support and commitment from the workforce in the fight against corruption.¹¹⁶

VI. Bureaucratic Challenges

Complex and cumbersome bureaucratic procedures significantly delay the investigation and prosecution of accused individuals, leading to slow justice delivery. These bureaucratic bottlenecks not only impede timely prosecution but also facilitate corruption within the public sector. Embracing digitalization can effectively address many of these issues by streamlining processes and reducing administrative costs. Implementing digital solutions across all areas of governance would encourage investment, expedite governance, and help prevent corruption by making administrative practices more efficient and transparent.

VII. Lack of Transparency and Accountability¹¹⁷

Nigeria's anti-corruption initiatives often emphasize transparency and accountability,¹¹⁸ but these goals have not always been realized in practice. Effective combating of corruption requires that government institutions operate transparently, allowing their actions to be monitored and holding them accountable for any lapses. However, the lack of prosecution, sentencing, and punishment for offenders undermines these principles, making it difficult to achieve true transparency and accountability.

VIII. Lack of funds

Inadequate funding of the anti-graft agencies hinders their operations. The ICPC and EFCC lack adequate funding and capacity. Donors have assisted but the funding gaps still exist and this affects the operations of the agencies making it impossible for the agencies to carryout proper investigations. The EFCC has lost so many cases in court either due to lack of evidence or lack of due and diligent prosecution. These agencies have not been able to fund high profile and complex investigations. They have not been able to hire competent lawyers, accountants or other expert investigators to achieve their mandate.¹¹⁹ There should be adequate legal and forensic skills in both agencies but unfortunately these are lacking. These hinder the effective investigation of economic and financial crimes cum corruption in Nigeria.¹²⁰

¹¹⁶ *Oyelola Muyiwa Atoyebi*, 'Assessing the implementation and impact of anti-corruption and impact of anti-corruption-laws-in-Nigeria;,<<https://lawparillion.com/blog/assessing-the-implementation-and-impact-of-anti-corruption-laws-in-nigeria/amp>> accessed March 1, 2024.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ *Idalay (n45) 18.*

¹²⁰ *Ibid.*

IX. Political Instability

When influential Nigerians with political ambitions create turmoil to sabotage the government, it often leads to the looting of public funds. These funds are used to buy votes to maintain power, and once in office, these individuals are protected from prosecution by the immunity provided under Section 308 of the Constitution. This immunity allows them to remain in government for extended periods, often shielded from accountability. Such political instability and corruption severely hinder investment and economic development, which rely on a stable and peaceful environment. Disruptions in economic activities due to instability drastically slow down the rate of development.¹²¹

H. The Way Forward

A lot can be done to improve the investment climate in Nigeria. Corruption has been identified as a bane to domestic and foreign investments but this can be improved through the following: the regulatory framework must be regularly updated and implemented by the relevant agencies. Public enlightenment on the dangers of corruption to our public and private lives as a nation should be embarked upon more rigorously. Here, there is need for re-orientation on our social values. This re-orientation should start in schools from the most basic level of education to the highest level. Courses should be taught in schools on the dangers and consequences of corruption. Special courts should be created to handle corruption cases expeditiously in order to rebuild confidence in investors both locally and outside the shores of the country. Those found guilty should be listed in a national corrupt offenders register to be established by the government at all levels the same way the sex offenders register has been established. These individuals adjudged corrupt by the courts must not be allowed to hold public offices and must not be granted pardon by the state.

The current practice of plea bargaining has not helped and must be discouraged. Those found guilty of corruption should be made to forfeit all that can be linked to the act to the government. They must not be allowed to retain any of the proceeds of their corrupt lifestyle. Funds looted by corrupt leaders must be recovered fully. Plea bargain has not worked as these funds left in the hands of the political class and their cronies have contributed to the decay in infrastructure and the slow pace of infrastructural development. Government must entrench transparency and accountability in all their dealings. Computerization of government administrative and financial sectors will remove the bureaucratic bottlenecks that encourage corruption. Infrastructural developments which support investments should be embarked upon. Government should desist from interfering with corruption cases in courts and have the political will to see trials on corruption brought to logical conclusion.

121 *Anga A. Rosemary and Gomwalk O. Bonnwa*, “Corruption and Economic Development in Nigeria: A theoretical Review”, *LWATI: A Journal of Contemporary Research* (2014) 11(2) 33-44 at 44.

The overlap in the functions of the anti-corruption agencies should be addressed and the relevant regulatory framework streamlined to avoid unnecessary struggle for supremacy by the agencies. Anti-graft agencies should be adequately funded to enhance investigation and prosecution. Most importantly, the agencies need to be independent from the government in power. Immunity clauses contained in the Constitution should be removed to enable the prosecution of government officials and the enthronement of accountability by the person in position of power.

I. Conclusion

This paper evaluated the impact of anti-corruption laws and measures on investment in Nigeria, examining national, regional, and international efforts to combat corruption and promote both local and foreign investment for economic growth. It highlighted how deeply entrenched corruption has hindered the development of sustainable infrastructure necessary to attract investment. Despite these challenges, anti-graft laws and initiatives have made notable progress in promoting good governance. However, investment conditions remain difficult due to ongoing corruption. The paper also discussed the challenges faced by anti-corruption agencies and their effects on development, offering recommendations to address these issues. It concluded that effective law implementation, supported by the government and judiciary, is crucial for enhancing transparency, accountability, and improving the business environment in Nigeria.

Nigeria, despite its wealth and potential for rapid development, remains hampered by widespread corruption, leaving its people poor and investments stagnant. Effective eradication of corruption is crucial for Nigeria to achieve significant economic growth and secure its position among the world's leading economies. The recommendations provided in this paper are aimed at facilitating the economic progress Nigeria seeks. While investments are being made, corruption drives many investors to relocate their businesses to more favorable environments. Discussions on increasing public servants' wages are ongoing, as higher wages could lead to better living standards and bolster efforts to combat corruption. Without adequate pay, public officers are more likely to resort to corrupt practices to sustain themselves, undermining anti-corruption campaigns. The paper also emphasized the need to address the deep-rooted corruption in the oil and gas sector, particularly illegal bunkering, which is both a form of sabotage and corruption. The government must demonstrate the political will to end the large-scale theft of crude oil, which has severe consequences for the economy and the nation's reputation.

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