**ANALYSING THE PROVISON OF S. 15(5) CFRN AND OTHER LEGAL FRAMEWORKS SET IN PLACE TO CURB CORRUPT PRACTICES IN NIGERIA**

**ABSTRACT**

Corruption is a canker worm, which has not only eaten deep into the fabrics of the Nigeria polity, but also soiled the image and personality of each and every Nigerian. The central aim of this article is not just to demonstrate that there is corruption in Nigeria, but also to uncover its causes, forms, and discuss the various agencies established by the government in controlling and tackling corruption corrupt practices. This article analyzes the provision of s 15(5) Constitution of the Federal Republic of Nigeria (1999) as altered and its effect with regards the fundamental objectives and directive principles of state policy. It is hoped that this article would help in readdressing and re-orientating the mindset of both the leaders and followers towards becoming better Nigerians for the benefit of future generations The doctrinal methodology will be used.

**Keywords: Anti-Corruption, Agencies, Challenges, Corruption, EFCC, ICPC.**

**1.0 INTRODUCTION**

***“ICPC intercept 5.88 Billion Fraud Attempt in Government Agencies”****.*[[1]](#footnote-1)This among many other disturbing news has always been the front page of many dailies newspaper in Nigeria.

Corruption according to the Oxford Dictionary is an act of dishonesty especially using bribery or an immoral or wicked act.[[2]](#footnote-2) Corruption is a deviation fromthe formal duties of a public role, because of private (gains) regarding (personal, close family, private clique, pecuniary or status gains. which deviates from the formal duties of a public role, because of private (gains) regarding (personal, close family, private clique, pecuniary or status gains. This includes such behaviour as bribery (use of reward to pervert the judgment of a person in position of trust); nepotism (appointment by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private regarding uses).

Corruption according to the provision of **s. 98** of the **Criminal Code** refers to:

1. *Any public official (as defined in section 98D) who-*
2. *Corruptly asks for, receives or obtains any property or benefit of any kind for himself or any property or benefit of any kind for himself or any other person, on account of-*
3. *Anything already, done or omitted, or any favour or disfavour already shown to any favour or disfavour already shown to any person, by himself in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a Government department, public body or other organization or institution in which he is serving as a public official, or*
4. *Anything to be afterwards done or omitted, or any favour or disfavour to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of the felony of official corruption and is liable to imprisonment or seven years.*
5. *If any proceedings for an offence under this section it is proved that any property or benefit of any kind, or any promise thereof, was received by a public official, or by some other person at the instance of a public official, from a person-*
6. *holding, or seeking to obtain, a contract, license or permit from a Government department, public body or other organization or institution in which that public official is serving as such, or*
7. *Concerned, or likely to be concerned, in any proceeding or business transacted, pending or likely to be transacted before or by that public official or by a government department, public body or other organization or institution in which that public official is serving as such, or by or from any person acting on behalf of or related to such a person, the property, benefit or promise shall, unless the contrary is proved, he deemed to have been received corruptly on account of such a past or future act, omission, favour or disfavour as is mentioned in subsection (1)(i)or(ii).*

According to the World Bank, corruption is the abuse of public office through the instrumentality of private agents, who actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Beyond bribery, public office can also be abused for personal benefit through patronage and nepotism, for example the theft of state assets or the diversion of state revenue.

The Corruption Practices and other Related Offences Act 2000, defines corruption to include bribery, fraud and other related offence like gratification. The Act gave a very wide definition of gratification to mean among other things, the offer or promise or receipt or demand of money, donation, gift, loan, fee, reward, valuable security, property or interest in property with the intent to influence such a person in the performance or non-performance of his/her duties. Although the definition of corruption by the Act is vague, it gives a wide ranging definition of gratification.[[3]](#footnote-3)

From the above definitions, three things come out clearly. First is that corruption is a dishonest act, wicked and bad. As a result, it will be expected that good people will not be involved in it. Secondly, corruption is seen as immoral and antithetical to the positive virtues of society. This implies that there should be social disapproval of anyone who engages in corrupt practices. Thirdly, corruption involves an abuse or misuse of position and authority. Any of such abuse is expected to be met with sanction.

In addition, corruption is a behaviour which deviates from the formal duties of a public role, because of private (gains) regarding (personal, close family, private clique, pecuniary or status gains. It is a behaviour which violates rules against the exercise of certain types of duties, for private gains[[4]](#footnote-4). This definition includes such behaviour as bribery, nepotism; and misappropriate. To the already crowded landscape, adds that corruption is an anti-social behaviour conferring improper benefits contrary to legal and moral norms, and which undermine the authorities to improve the living conditions of the people.[[5]](#footnote-5)

Corruption can be categorized into different perspectives. Corruption can be classified according to how it is carried out in relation to established rules in administration. There are two types of corruption in this regard. The first is done according to the rule where an official receives private gain for doing what he/she is paid to do. The second is done against the rule where an official is paid bribe to give services that he/she is prohibited from providing. Corruption can also be classified according to the scale i.e. petty or survival corruption and grand corruption. Petty or survival corruption is practiced by civil servants, who may be grossly underpaid and depend on financial inducement (bribes) in order to support and meet their family needs.

The grand corruption is practiced by high public officials and it often involves large sums of money. Corruption has also been classified based on the spheres or arena of special activities where it takes place. Using this criterion, classified corruption into five groups: Political corruption, Economic corruption, bureaucratic corruption, Judicial corruption and moral corruption.[[6]](#footnote-6) Political corruption is manifested in activities connected with election and succession, and the manipulation of people and institutions in order to retain power and office. Economic corruption occurs when business people use corrupt means to pervert the normal institutional regulations, hasten or shorten procedures and get undue advantage or value for goods and services. Bureaucratic corruption involves buying favours from bureaucrats, who formulate and administer government economic and political policies including foreign exchange, privatization exercises, import licenses, taxes etc. Judicial corruption occurs when law enforcement agencies and the courts pervert the administration of justice. Moral corruption occurs when people engage in practices that are morally reprehensible.

On the basis of the above definitions we can recapitulate the basic postulation of corruption:

1. It is deliberate or intentional exploitation of one‘s position, status or resources.

ii. It may be done directly or indirectly.

iii. It is done for personal aggrandizement whether it is material gain or enhancement of power or prestige or influence.

iv. It is done by violating legitimate or sanctioned or commonly accepted norms of behaviour

v. It is done against the interest if the community or other persons.[[7]](#footnote-7)

Some studies have taken a holistic approach in the discussion of corruption by dividing it into many firms and sub-divisions. These are:

i. Political Corruption (grand);

ii. Bureaucratic Corruption (petty); and

iii. Electoral Corruption. [[8]](#footnote-8)

Political corruption takes place at the highest levels of political authority. It occurs when politicians and political decision-makers, who have the responsibility to formulate, establish and implement the laws are corrupt. It also takes place when policy formulation and legislation is tailored to benefit politicians and legislators. Political corruption is sometimes seen as similar to corruption of greed which affects the manner in which decisions are made through the manipulation of rules of procedure and political institutions and distortion of government institutions.

Bureaucratic corruption occurs at policy implementation stage of public administration. This kind of corruption has been branded low level and street level. It is the kind of corruption the citizens encounter daily at places like the hospitals, schools, local licensing offices, police, taxing offices and on and on.

Electoral corruption includes vote buying, promises of office or special favours, coercion, intimidation, and interference with freedom of election (Nigeria is a good example where this practice is common. Votes are bought, people are killed or maimed in the name of election, losers end up as the winners in elections, and votes turn up in areas where votes were not cast). Electoral corruption involves sale of legislative votes, administrative, or judicial decision, or governmental appointment. Disguised payment in the form of gifts, legal fees, employment, favours to relatives, social influence, or any relationship that sacrifices public interest and welfare, with or without the implied payment of money, is usually considered corrupt.[[9]](#footnote-9)

Other forms of corruption include:

1. Bribery: The payment (in money or kind) that is taken or given in a corrupt relationship. These include kickbacks, gratuities, pay-off, sweeteners, greasing palms, etc.[[10]](#footnote-10)
2. Fraud: It involves some kind of trickery, swindle and deceit, counterfeiting, racketing, smuggling and forgery.[[11]](#footnote-11)
3. Embezzlement: This is theft of public resources by public officials. It is when a state official steals from the public institution in which he/she is employed. In Nigeria the embezzlement of public funds is one of the most common ways of economic accumulation, perhaps, due to lack of strict regulatory systems.

d. Extortion: This is money and other resources extracted by the use of coercion, violence or threats. It is often seen as extraction from below (The police and custom officers are the main culprits in Nigeria). [[12]](#footnote-12)

e. Favouritism: This is a mechanism of power abuse implying a highly biased distribution of state resources. However, this is seen as a natural human proclivity to favour friends, family and any body close and trusted.

f. Nepotism: This is a special form of favoritism in which an office holder prefers his/her kinfolk and family members. Nepotism, (which is also common in Nigeria), occurs when one is exempted from the application of certain laws or regulations or given undue preference in the allocation of scarce resources.[[13]](#footnote-13)

**2.0 LEGAL FRAMEWORK FOR THE ABOLISHMENT OF CORRUPTION IN NIGERIA.**

Corruption is exist in almost every facet of the public setting. It is perhaps in realization of this fact that s.15(5) of the constitution provides that ***“the state shall abolish all corrupts practices and abuse of power”.***The inclusion of this clause in the constitution demonstrates the intent to institutionalize anti-corruption efforts. However, the realization of this goal depends on effective implementation, which has faced several challenges.

This provision gave rise to the establishment of several agencies by the government to tackle this menace. The establishment of the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC) in Nigeria marked a significant turning point in the country's fight against corruption.

Prior to the establishment of these agencies, corruption had become a pervasive and entrenched problem in Nigeria, undermining the country's economic development, political stability, and social fabric. The need for a dedicated anti-corruption agency became increasingly urgent, leading to the creation of the ICPC in 2000 and the EFCC in 2003.

1. **ECONOMIC AND FINANCIAL CRIME COMMISSION (EFCC).**

The EFCC was established by the EFCC Act of 2002 during the Obasanjo’s regime, which granted it the power to investigate, prosecute, and prevent economic and financial crimes. The agency's mandate includes:

1. Investigation and prosecution of fraud, bribery, money laundering, and other economic crimes
2. Freezing and forfeiture of assets derived from corrupt activities
3. Tracking and recovery of stolen funds
4. Collaboration with international agencies to combat transnational crime
5. **INDEPENDENT CORRUPT PRACTICE AND OTHER RELATED CRIMES COMMISSION (ICPC).**

The ICPC was established by the ICPC Act of 1999 also during the democratic regime of Olusegun Obasanjo, which tasked it with:

1. Investigation and prosecution of corrupt practices in the public and private sectors
2. Monitoring of government agencies and parastatals for corruption
3. Investigation of fraud, embezzlement, and other financial crimes
4. Public education and enlightenment on anti-corruption efforts

**ROLES IN CURBING CORRUPTION**

Both agencies have played crucial roles in combating corruption in Nigeria:

1. High-profile convictions: EFCC and ICPC have secured convictions of prominent politicians, business leaders, and public officials, demonstrating that no one is above the law.
2. Asset recovery: EFCC has recovered billions of naira in stolen funds and assets, including properties and vehicles.
3. Public awareness: ICPC's public enlightenment campaigns have increased awareness about corruption's ills and encouraged citizens to report corrupt practices.
4. Collaboration: Both agencies have partnered with international organizations, enhancing Nigeria's reputation in the global fight against corruption. In a recent news the Independent Corrupt Practice and other related Crime Commission (ICPC) gave statistics as regards the level of success in their work especially while partnering and collaborating with other agencies. ICPC chairman revealed that 70% of Nigerians rejected bribes in 2023, with Northwest leads 76% resistance rate.[[14]](#footnote-14)

**EFCC's Notable Achievements.**

1. Prosecution of high-profile cases: EFCC has successfully prosecuted several high-profile cases, including that of former governors, ministers, and top government officials.[[15]](#footnote-15)
2. Recovery of stolen assets: EFCC has recovered billions of naira in stolen funds and assets, including properties, vehicles, and other valuables.
3. Conviction of advance fee fraudsters: EFCC has secured the conviction of numerous advance fee fraudsters, popularly known as "yahoo boys," who have defrauded foreigners of millions of dollars.

**ICPC's Notable Achievements.**

1. Systemic corruption investigation: ICPC has investigated and exposed systemic corruption in various government agencies, including the Nigerian Customs Service and the Federal Inland Revenue Service.
2. Public enlightenment campaigns: ICPC has conducted nationwide public enlightenment campaigns to educate citizens about the ills of corruption and the importance of integrity.
3. Corruption monitoring: ICPC has established a corruption monitoring unit to track and report corrupt practices in government agencies and parastatals.
4. **The Role of the Code of Conduct Bureau (CCB)**

The CCB Act requires public officeholders to declare their assets before assuming office. Asset declaration serves as a preventive measure against illicit wealth accumulation by establishing a baseline for wealth evaluation. Section 172 of the CFRN further enforces this obligation, highlighting the importance of accountability.[[16]](#footnote-16) However, critics argue that enforcement mechanisms remain weak, and non-compliance often goes unpunished.

1. **Federal Civil Service Rules and Property Acquisition**

The Federal Civil Service Rules prohibit civil servants from acquiring property through illicit means during their tenure.[[17]](#footnote-17) Rule 030305 of the Federal Government Public Service Rules emphasizes discipline and integrity in the conduct of civil servants while Rule 030444 of the Federal Government Public Service Rules emphasizes prohibition of bribery and corruption. Breaching these provisions constitutes gross misconduct, which may lead to dismissal and criminal prosecution.

**CHALLENGES AND RECOMMENDATIONS**

Despite progress, both agencies face challenges which includes but not limited to the following as mentioned below;

1. Political interference: EFCC, ICPC and CCB have faced interference from powerful politicians, hindering investigations and prosecutions.
2. Funding: Inadequate funding has limited the agencies' effectiveness.
3. Capacity building: Both agencies require training and capacity building to enhance their investigative and prosecutorial skills.

**4.1 RECOMMENDATION**

To enhance their impact, the following recommendations are made:

1. Strengthen legal frameworks to protect the agencies from political interference
2. Increase funding to enhance operational capacity
3. Provide regular training and capacity building for personnel
4. Enhance collaboration between EFCC, ICPC and CCB to avoid duplication of efforts

**5.0 CONCLUSION**

The establishment of EFCC, ICPC, CCB among other agencies saddled with the responsibility of curbing corruption has marked a significant milestone in Nigeria's fight against corruption. While challenges persist, the agencies' efforts have demonstrated that corruption can be tackled with determination and political will. By strengthening these agencies, addressing the challenges they face, strengthening legal frameworks, increasing funding, building capacity, and enhancing collaboration, Nigeria can make significant strides in curbing corruption and promoting a culture of transparency and accountability. The success of EFCC, ICPC and CCB is crucial to Nigeria's economic development, political stability, and social progress.

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2. The Oxford Dictionary of Current English (2001) Oxford: Oxford University Press [↑](#footnote-ref-2)
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10. Bayart, J. F. et al. “The Criminalisation of State in Africa.” (1999) Oxford: James Curry. Pg. 11 [↑](#footnote-ref-10)
11. Ibid. [↑](#footnote-ref-11)
12. Ibid. [↑](#footnote-ref-12)
13. Girling, J. “Corruption: Capitalism and Democracy.” (1997) London: Routledge. [↑](#footnote-ref-13)
14. <https://thenigerialawyer.com/70-of-nigerians-rejected-bribes-in-2023-icpc-chairman-reveals-northwest-leads-with-76-resistance-rate/> [↑](#footnote-ref-14)
15. Federal Republic of Nigeria v. Joshua Dariye and Federal Republic of Nigeria v. James Ibori [↑](#footnote-ref-15)
16. Section 172 Constitution of the Federal Republic of Nigeria. 1999 (as amended).

    *“A person in the public service of the federation shall observe and conform to the code of conduct.”* [↑](#footnote-ref-16)
17. Ezeani, E. O. “Public Accountability in Nigeria.” (2005) Fourth Dimension Publishers. [↑](#footnote-ref-17)