

CORRUPTION, ABSENCE OF RULE OF LAW AND THE WAY FORWARD FOR AFRICA

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Abstract

This study focused on the implication of corruption and the absence of the rule of law in leadership in Africa. Africa is adjudged poverty capital of the world. This work aimed at examining the role of corruption and the absence of the rule of law among leadership in entrenching poverty and under-development in Africa. Its core objectives included: (1) a re-assessment of constituents of corruption in Africa (2) relationship between the executive and other arms of government (3) ignorance among citizenry on the ripple effects of corruption and their roles in it, among others. To achieve the above, the study adopted qualitative and historical research methods that analyzed workshop documents, newspaper and magazines, journal articles and researched works and memos, and as well, internal sources that death on the subjects under investigation. The study revealed that entrenched corruption, the absence of rule of laws and ignorance among citizens remain major causes of underdevelopment and festering poverty in African societies. To stem the tide, the study recommended a complete reversal from the status quo. This, it states, will be the only panacea to put the continent on the path of sustainable development for a total emancipation of its people.

Keywords: Africa, Corruption, Rule of Law, Reversal and Emancipation.

Introduction

Corruption in Africa has assumed a very dangerous dimension. It is so unfortunate that mother Africa has become a theater for the dramatization of the ills and effects of corrupt practices on nation-states and humanity in general. Corruption in Africa is an age-long problem and a highly formalized, if not a normative practice that has attracted several critical and empirical reviews. The extant studies and commentaries have reached a ubiquitous conclusion suggesting that corruption has evolved into a self-reinforcing and

self-perpetuating institution in Africa. Although opinions are divided regarding the precise origin or the underlying causes of corruption, the available evidence seems to have moved the debate from colonial-post-colonial factors dichotomy to the structural link between corruption in colonial and post-colonial era, thus reaffirming the notion that corruption is an institution in Africa with a long history.

It is on record that corruption in Africa persists because public officials have no fear of being held accountable for their actions. Moreover, corruption pervades the very key institutions such as the: police, judiciary, and legal systems, which are ordinarily designed to provide checks and balances and therefore prevent any institutional reforms. It is a statement of fact that corruption goes with power. Corruption over the years is argued as Africa's worst undoing. Rule of law is a prerequisite for a peaceful, orderly, justice oriented and sustainable governance in any given society. Where there is an absence of rule of law, then rule of men prevails which is anti-thetical to societal co-existence and sustainable development.

Rule of law entails that legal processes, institutions and substantive norms are consistent with human rights, including the core principles of equality under the law, accountability before the law and fairness in the protection and vindication of rights. More importantly, rule of law has played an integral part in anchoring economic, social, and cultural rights in national constitutions, laws and regulations.¹ But the bitter truth is that in Africa, rule of law is obeyed more in breach than observance. It is practically rule of men and the elites and not particularly rule of law which has had a dangerous implication on Africa and its people.

Africa and Underdevelopment in Perspective

Under-development has assumed a frightening dimension in the African continent, no thanks to corruption and apparent absence of rule of law in governance and polity.

Sam Momah captured the ugly situation in Africa when he stated that;

Africa, particularly Sub-Saharan Africa, has been at, the sad end of epoch-making events, and the blessing of others have often turned out to be her woes, for instance, the growth of the Industrial Revolution by the mid-17th century in Europe and later in North America, while igniting the technological take-off of the rest of the world, de-humanized Africa following an upsurge in the demand for African slaves. Also, the discovery of diamond and gold in South Africa rather than garner blessings for Africans led to the obnoxious apartheid policy, currently, the discovery of the "black gold" (petroleum) instead of being a means to her economic emancipation has chained her to economic slavery epitomized by the

prevailing debt burden. Furthermore, unlike in other continents of the world such as Europe, America or Asia, where political independence ushered in a sustained new lease of life for their citizenry in Africa, the opposite is the case....²

As a result, Africans seem to again to have lost at both ends, by being slaves in the “heaven” (pre-independence) and now rulers in the “hell” (post-independence). Indeed, the situation in Africa is so disturbing that Paul Kennedy has described it as; “A human and environmental disaster area, moribund, marginalized, peripheral to the rest of the world and indeed Africa is the third world’s”³.

Apparently, the political independence of African states, without the requisite economic emancipation is the worst kind of slavery. The end result has been political instability, exacerbated by military coup d’etat, dwindling productivity, wanton capital flight, demographic explosion, high interest rates, low commodity pricing, undiversified economic base, dwindling export credits, crushing debt burden, and finally, the castration of African economies by the international donors and creditors thereby turning African states into mere trading posts that are wholly import-oriented.

Chinweizu was so correct when he asserted;

By 1984, it was the only continent that was unable to feed itself, famine raged or threatened across wide swath of Africa. Its dominant image was one of the chronic incompetence symbolized by the emaciated refugee with a begging bowl glued to his palm. As African leaders clamoured for relief and as millions starved and died, Africa became an object of world charity, pity, and thinly disguised contempt. After a quarter of a century of effort, Africa had neither attained modernity nor gained the respect of the world.⁴

Even at international politics and international engagements Africa has not fared better. At the auspices of the United Nations, where the forces of communism and capitalism met often to decide on the fate of global economy, and politics and where different policies of development, trade and international co-operation are networked, Africa was largely a beneficent spectator particularly because she had neither the military, economic, nor the power diplomacy which could have turned any decision in her favour.

The nascent power diplomacy which could have positively contributed to her relevance was largely undermined by the game of politics of aid, materials and financial assistance, as well as the technicalities of the method of the use of force in strategic international multilateral diplomacy. Evidently where the practice of voting or decision by consensus is being utilized, Africa simply becomes the bride to the courted, rough handled and often times, diplomatically cornered into giving support to medium or super powers initiative

especially on issues of disarmament, demilitarization, development assistance, peace keeping and peace building for security, peace and development.

In real sense, looking at the African echoes of past and present, it is quite evident that the sound of Africa seems lost in the echoes of trouble, in the echoes of shattered dreams and in the echoes of hopes betrayed. In 1963, Africa was reasonably sure of itself, now the light of hope is a flickering candle.

Walter Rodney pictured the unfortunate scenario in the book *How Europe Underdeveloped Africa* where he stated;

A black child with a transparent rib-case, huge head, bloated stomach, protruding eyes and twigs as arms and legs has become the dominant global image of the African condition of distress.⁵

Corruption Abuse of Laws and Institutions

Corruption, as a concept, is surrounded by scores of ideological complexities such that, defining it becomes a laborious intellectual task, especially to situate it within the divergent political climate. Despite all these complexities, corruption is considered as misuse or abuse of power, funds or political/administrative positions for private gains. This tends to explain the accumulation or diversion of public wealth for private advantages. However, in the political context, it entails diversion or misuse of public funds for personal aggrandizement. Corruption also connotes the misallocation of resources, manipulation of government procedures, rules and regulations by reconfiguring the ethical standard of the state by the political office holders.

According to Lodge, it is a situation whereby the state laws are circumvented and fashioned in line with the individual political elites when laws are abused, misused, or disregarded by those in power to protect their personal interest.⁶ Another dimension of political corruption is electoral manipulation at the advantage of either the incumbent regime or the political colossus whose political influence can be felt in the polity. This may also be established in the context of exchanging money or material benefits for electoral support. This is more pronounced in the contemporary African democracy which was popularized in Nigeria as “politics of stomach-infrastructure”. A manifestation of the dynamics of institutional corruption and spoil politics in African democracies is found in a study conducted by Transparency International. It found that 44% parents paid unlawful fees for free education in Uganda, Sierra Leone, Ghana, Madagascar, Niger, and Senegal.

In Zimbabwe, local Councillors liaised with housing officials to buy government houses and sell them at inflated rates to the citizens. In Kenya, the political regime of Mwai Kibaki was alleged of inflation of contracts by the anti-corruption agency led by John

Githongo. In Liberia, the government that ruled up till 2005 was alleged to have stolen more than 100 million dollars annually. The culture of primitive accumulation by public officers saddled with the responsibility of safe guarding public treasury has permeated African post colonial state, hence leading to conflicts, civil war, terrorism, political instability, poverty and exasperating developmental cynicism.⁷

In most African states, the primacy of corruption is institutionalized in the political and bureaucratic framework. Corruption forms a coordinating network through military personnel, civil servants, and political office-holders. Also corruption was accredited in the judicial system, a situation whereby adjudication is based on the level of wealth or affluence, political and social status. The judicial verdicts are not instituted on the evidence presented in the court of law. Furthermore, judicial institution is also being used by judicial officers to chastise their enemies. The custom that is saddled with the responsibility of safeguarding counterfeit goods also serves as facilitators of smuggling operations. Corruption also manifests among directors of public institutions and proliferation of “ghost workers”.

Nigeria is the epicenter of corruption not only in Africa but ranks highly among most corrupt nations in the world. Actually, the phenomenon of corruption has remained Nigerian’s biggest challenge; the everyday corruption has heaved the nation back to recession, under-development, and astronomical increase in unemployment. Concurrently the country is plagued amidst ethnic configuration, bad political leadership, terrorism, socio-cultural hindrances and big-man politics which had metamorphosed to democratic hybridity and rocky democratic experience.⁸

Nigeria’s political structure is so personalized to the extent that it is difficult for ordinary citizens to have access to basic necessities of life. The fierce struggle in the public space is linked to conflicts that characterize leadership succession in traditional political systems and the attractions of political control where party politics guarantee access to wealth and economic power.

Another dimension of corruption in Nigeria is money politics. In terms of obtaining party nomination form, the contender must have acquired millions of naira, thus, disenfranchising those with genuine interest for the country. Money has been a veritable tool in the hands of politicians to manipulate and influence election results. While the citizens have bowed to the mammoth threat, especially the youths who are unemployed or victims of poverty, consequently instituting political hegemony. Therefore money-politics serves as a determinant for political participation and representation, youths and women in this process become the victims who have no access to economic resources. Due to prevalence of poverty, the citizens are found succumbing to the whims and caprices of

political elites who have the power to influence electorates by distributing money and material needs, thus empowering political representatives to the unaccountable and fostering corruption in Nigeria's political space.⁹

The situation in Nigeria is so pathetic that Chief Odumegwu Ojukwu remarked;

That whosoever controlled the Nigerian government could not only do himself and his ilk infinite good that he would do his opponent infinite harm. Political victory by all means and at all costs is seen as insurance to join a clique of oppressors, foreign exchange dealers, contractors and 10% collectors.¹⁰

The overall scene is hostile for both the winner and the loser. Each is insecure. Each is a target of the other for assassination or any other possible injurious harm. Envelops that change hands could be disturbing factors that give rise to intolerance, suspicion, hostility and insecurity to both losers and winner alike. This norm-less politics is a creation of a corrupt state which debased institutions. Corruption in Africa and world over is so multi-faceted and multi-dimensional with so many tentacles. It is so important to note that there is no universally agreed definition for corruption. The difficulty in coming up with a universally accepted definition is due to the fact that what constitutes an act of corruption differs from state to state and culture to culture. The most acceptable definition of corruption has also been challenged on account that legal traditions also change over time and are highly inter-related with the socio-political and cultural context. The danger in the lack of universalized but culture-relative definition of corruption is the tendency for corrupt individuals to hide under the cultural antics to perpetuate corrupt practices at the expense of society in general.

The apparent lack of consensus on a common definition of corruption as a social, political, security and development issue has led to the outpouring of several definitions. The United Nations Organization (UNO) defines corruptions as;

An abuse of public power for private gain that hampers the public interest. This gain may be direct or indirect... Corruption entails a confusion of the private with the public sphere or an illicit exchange between the two spheres. In essence, corruption practices involve public officials acting in the best interest of private concerns (their own or those of others) regardless of, or against the public interest.¹¹

The above definition falls short in several aspects. One, it does not capture private sector corruption which is equally distractive to investment and economic growth. Secondly it refrains from naming what constitutes an act of corruption. Thirdly, the definition does not mention who the holders of the "Public Power" are.

The definition provided by Transparency International improves on the United Nations definition by making reference to “Politicians” and “Civil Servants” as “Public Power” holders.

According to Transparency International;

Corruption is behavior on the part of officials in public sector, whether politicians or civil servants in which they improperly and unlawfully enrich themselves or those close to them by abuse of public power entrusted to them. This would include embezzlement of funds, theft of corporate or public property as well as corrupt practices such as bribery, extortion or influence peddling.¹²

The above definition has its own limitations. The World Bank introduces the private sector into its definition. By this singular act, the Bank refocuses attention on corruption on a much larger scale. The World Bank in its definition states that;

Corruption involves behavior on the part of officials in the public and private sectors in which they (public and private officials) improperly and unlawfully enrich themselves and/or those close to them or induce others to do so, by misusing the position in which they are placed.¹³

According to Samuel Atuobi whether a particular definition mentions “Public Sector” or “Public Official” without the “Private Sector” or “Private Official” does not matter greatly. The “Private” and “Public” do not differ much. As much as those who hold offices in private companies – local or multinational – hold them in trust for their shareholders, their offices are not entirely private. Their actions have direct impact on the welfare of their shareholders and society in general.¹⁴

In view of this obvious fact, the best approach to the debate on what constitutes corruption will be to consider it as what society thinks it is, at a particular time. In other words, we should be seeking to clarify the essence of corruption by looking straight at reality without any particular local or “traditional legal lenses”.

By adopting this open minded attitude, we shall be able to arrive at a broader consensus;

As to which acts are intrinsically harmful to society and should therefore be prevented and punished. Not everyone will agree that all types of questionable relationships and misconduct constitute corruption or should be illegal. The point is to take into account as many voices and perspectives as possible. This approach will help nations to re-assess what it is that they define as corrupt practices that should be prevented and sanctioned.¹⁵

The issue is that, no matter the connotation given to the concept, the monster called ‘corruption’; it has done more harm than good to the African society and its people.

Nexus between Corruption, abuse of Law and Instability in Society

Africa has been described as a rich land of lost opportunities. It is also important to state, that man masters nature, not by force but by understanding. It is the understanding of the nature that will be harnessed for optimal national development. But the question is: How can there be a harness of resources for optimal development in a land riddled with mindless corruption? Corruption and abuse of laws, system and institution in Africa is seriously destabilizing the African continent.

In fact, the onset of corruption in any state is not a sudden onslaught, but begins as a gradual challenge to institutional norms and the rule of law. If it remains unchecked it becomes endemic in which case private interest (individual and group interest) competes with national interest. Where private interest dominates the states, the state is weakened and is unable to perform its core functions, the state will be exhibiting signs of fragility, with violent conflict as one of the possible symptoms.¹⁶

A state is unstable if it is unable to address the grievances of the citizens or sections of it. The sources of the grievance could be domestic or international, political, economic and social or a combination of all these factors. Indeed, corruption can increase grievances and conflictual demands for political change through popular support for violent political change, coup d'état.

United Nations Organization's office for West considers actual or even perceived massive corruption as one of the factors that increases the vulnerability of states to coup d'état and render a coup almost unavoidable. For instance, the 1966 coup of Nigeria was intended to "sweep away" a corrupt regime and was welcomed with scenes of wild rejoicing. That was very unfortunate. Corruption and mismanagement of public resources by government officials were some of the often cited justification for rebel activities in Sierra-Leone and Liberia.

Also political corruption and the concomitant corruption of politics undermine institutionalized public affairs including processes of political change and conflict resolution mechanism. A stable political system should be able to settle conflict between groups within the state. Corruption erodes confidence in the application of the rule of law. People then would rather resort to violence instead of the courts and administrative procedures. The state itself, unable to resolve conflict and dispute between citizen and groups and between groups, will then resort to the use of force, most often illegal, to enforce order. The over-reliance on the use of force as a means of resolving conflict would most often lead to the segment of society that has access to the use of force to challenge the legitimacy of the state through violence.¹⁷ Corruption also weakens state governance and reduces government revenues available to provide services, thus

promoting state weakness and fragility, necessitating the breakdown and flagrant abuse of law and institutions of the state.

Towards a Progress-Minded Socio-Political, Economic and Cultural Institutions

Ronald Senegal had this to say about Africa in an Editorial of a book;

Long before in the evolution of man himself, Africa had helped shape history and while the centres of European culture, flourished, decayed and sprouted in their turn, Europe in Africa rose, ruled, resisted and succumbed. Scholars studied and disputed in Timbuktu as in Paris and what the Italians achieved with pigments, the artists of Benin accompanied with bronze. The culture (government and politics) were different, but only to the horizontal, the vertical, the separation into superior and inferior was a product of conquest.¹⁸

This humble assertion was further corroborated by J.E Casely Hayford in 1922 when he maintained that; before even the British came into relation with our people we were a developed people, having our institution, having our own ideas of government.¹⁹ The above statements point out to one fact: that there was a time, Africa was a force to be reckoned with in global affairs and civilization. History and record have it that Egypt, a country in Africa, is a cradle of human civilization and development. Africa had developed systems of organization and governance that were the envy of the world. Africa has a peculiar culture and tradition and then they harnessed the resources of the nature and human resources to contribute to societal development. Buttressing this fact further the former military president of Nigeria, General Ibrahim Babangida, stated this at the International Conference on African Economic Community;

Time was, when Africa was regarded as the centre of the world, not just for its geographical location but because of immense contributions to scientific development and human progress. While it is true that the geographical location has not altered, virtually everything has changed. The civilization that gave the world the Egyptian Pyramids thousands of years ago finds itself having to import virtually everything needed to build a house. A people so versed in the intricacies of algebra are now awe-struck spectators in the field of science and technology. Today Africa has been so relegated to the periphery in world affairs that the genuine fear is that the continent runs the risk of becoming permanently marginalized in the global scheme of things. It does little credit to our Africaness to note that according to nearly all the indices by which human progress is measured at the end of the 20th century, Africa enjoys the dubious distinction of bringing up the rear.²⁰

The situation in Africa now is so worrisome and disturbing and needs a pragmatic and radical approach. The study believes that there is still hope for the continent and its people if the following measures are religiously implemented.

(a) Purposeful and Visionary Leadership

The problem of Nigeria like most African states is simply the failure of leadership. Africa has not been blessed with selfless and visionary leaders. Most leaders in Nigeria have nothing to offer to Africa's growth and development, more importantly they do not have the interest of Africa at heart.

Walter Rodney was so correct when he asserted that African sell outs as leaders of African countries dance in Abidjan, Accra and Kinshasha while music is played in Paris, London and New York.

Indeed, African leaders think of themselves and interest of the imperial powers while undermining the interest of the generality of the African people. When an African leader decides to live above board, thinks of what he can do to his state and not what his state can do for him, he will systematically stamp out corruption in the system and engender rule of law which will facilitate development and progress. Singapore is a model of development just because of progressive and impactful leadership.

(b) Strengthening of Anti-Corruption Agencies

Most anti-corruption agencies in Africa are compromised institutions. They are only an instrument of the ruling power against the opposition. When men of integrity, credibility and vision manned these anti-corruption agencies without government interference, there will be probably accountability in the system and defaulters would face the law no matter whose Ox is gored. This will impact on the polity and institutions of the state.

(c) Political Commitment at the Highest Level

Committed leadership from government and civil society backed by a coalition of supporters including political institutions and parties ready to push for greater accountability and transparency is essential in the fight against corruption and abuse of institutions of the state. Commitment by political parties is also important because they are most likely to be in power in the future. It is important that their commitment to fighting corruption is solicited and nurtured before they assume political office. Regional and anti-corruption policies should therefore aim at involving political parties in designing anti-corruption policies.²¹

(d) Collaboration with Civil Society Groups

Fighting constitution and entronement of rule of law in the polity requires partnership between the state, civil society and citizens. While the state can provide an effective legal framework for fighting corruption, civil society can best disseminate anti-corruption

campaigns and conduct relevant research on the subject and share experience with the state. The general public can also provide relevant information for uncovering corruption practices in the society.

(e) Public Education and Information Dissemination

Public education and information dissemination will help citizens who often feel powerless to resist corruption in their everyday lives. If citizens are largely unaware of what constitutes corruption, its enormous social and economic cost as well as what can be done, they are less likely to help fight the problem. Furthermore work is needed to help people identify practical ways to avoid involvement in corrupt practices. Part of the solution is setting up an effective complaint mechanism and helping to enforce the rule of law.

(f) Judicial Reform

Judicial reform is aimed at reinforcing the independence of the judiciary. It is also key element in combating corruption and institutionalizing rule of law. The judiciary is not fully independent, and the executive branch can exert strong control over judicial appointments. This does not mean well in the fight against corruption. The judiciary should be fully independent and should be funded directly from the consolidated funds so that reckless executive interference will minimize as well help in the fight against corruption.

Conclusion/Recommendations

Corruption and abuse of law and institution are major issues militating against Africa's march to human progress and technological development. Our continent Africa is a rich land of lost opportunities. Those opportunities lost were as a result of failure of the leadership to harness both the natural and human resources potentials of Africa to improve society and humanity, no thanks to corruption and abuse of processes.

The present global image of Africa is pathetic and unfortunate. Africa has to wake up from its slumber to take its rightful place in the global scheme of things. The leadership in Africa has to take the bull by the horn and mobilize other sections of the African society to confront the scourge of corruption and abuse of law in Africa. When these societal ills are confronted head-long, Africa will be on a path to development and human emancipation.

Endnotes

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