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Combating Corruption in Nigeria: the Role of Economic and Financial Crimes Commission (EFCC)

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Abstract

Torruption is a persistent cancerous phenomenon which bedevils Nigeria. Misappropriation, bribery, embezzlement, nepotism, and money laundering by public officials have permeated the fabric of the society. The office seekers of major political parties top the list of unfit or corrupt officials. Elected officials in high echelons of power and public officers use their positions to engage in corrupt activities. It is estimated that corruption accounts for 20 percent of the GDP of Nigeria. For several years, Nigeria has been at the bottom of Transparency International's (TI) Corrupt Perception Index (CPI) ranking. In 2002, the Nigerian government created the Economic and Financial Crimes Commission (EFCC) to investigate and prosecute cases of corruption and financial crimes. The data for the study were basically selected from secondary materials such as textbooks, internet materials, newspapers and magazines, journals, articles and EFCC publications, etc. This paper reviews the scope of corruption and the efforts by the Nigerian government to combat it by examining the various perspectives for understanding the causes of corruption. The study while recognizing the importance of the various perspectives, notes that both the rent-seeking and institutional theories offer deeper insights into the systemic nature of Nigerian corruption. Finally, the article examines the activities of the EFCC and notes that it faces serious challenges as the configurations of the Nigerian political landscape are uncertain.

Keyword: Corruption, Economic and Financial Crime Commission (EFCC)

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Background to the Study

Corruption is a social menace that has eaten deep into the fabric of the Nigerian polity. One of the greatest threats to economic and political development in Nigeria is corruption. Therefore, the challenges of corruption remain a major devastating issue facing Nigeria since the colonial period, although, this phenomena has become a cankerworm that has eaten deep into the fabrics of our system. Nevertheless, its solution rests in our hands and cannot be put off to another day. That is why many countries have put in place different mechanisms for checkmating the spate of corruption. In Nigeria for example, the menace of corruption has been discussed at different levels, yet this ugly incidence keeps surviving with us at all facets of our endeavours.

Since the return of the country to civil rule on May 29, 1999, the Nigerian government has taken a number of measures to address the problems of corruption and bad governance in the country. These measures include public service reform (monetization to reduce waste and reduction of over-bloated personnel, reform of public procurement); establishment of anti-corruption enforcement agencies (such as the Economic and Financial Crime Commission, Independent Corruption and other Practices Commission); and the ongoing Voluntary Asset and Income Declaration Scheme (VAIDS) which provides an opportunity for Nigerians with assets and income that undeclared to be declared. Despite the successes attained by these measures, the situation remains unacceptable as corruption continues to permeate and pervade every facet of national life in Nigeria. This situation poses a challenge which this paper sets out to address. In doing this, the paper examines the concept corruption, causes of corruption, and the effects of corruption on Nigeria's developmental efforts. At the end suggestions on how to stamp- out corruption in Nigeria are outlined.

Methodology

In this research paper, the data for the study were basically selected from secondary materials such as textbooks, internet materials, newspapers and magazines, journals, articles and EFCC publications, etc.

Literature Review

Corruption like most concepts in social sciences is classified into the group of concept described by Gallie as highly contestable concepts. Thus, the definition that may be attached can be dissected and restricted. Onigu Otite defined corruption as "the perversion of integrity or affairs through bribery, favour, or moral depravity... societal impurity" (cited in Okafor, 2009). Lipset and Lenz (2000) define corruption as an "effort to secure wealth or power through illegal means for private gain at public expense" (Fagbadebo, 2007).

Corruption, according to Nkom (1982) is the perversion of public affairs for private advantage. Nkom was also of the view that corruption includes bribery or the use of unauthorized rewards to influence people in position of authority either to act or refuse to act in ways beneficial to the private advantage of the giver and then that of the receiver. It

includes the misappropriation of public funds and resources for private gains, nepotism etc. In a similar vein, Doig (1996) described corruption as, the use of official position, resources or facilities for personal advantage, or possible conflict of interest between public position and private benefit. This involves misconduct by public officials and usually covered by a variety of internal regulations (Public Service Rules and Extant Rules). From the above, it is common to find people referring to corruption as the perversion of public affairs for private advancement. Therefore, corruption in this sense includes bribery, kickback, misappropriation, misapplication or the use of ones position to gain an undue advantage. Thus, any transaction which violates the duty of a public office holder and aimed at acquiring or amassing resources illegally for personal advancement and self gratification is seen as an act of corruption. Put differently, any intentional deviant behaviour for personal fore deal is a corrupt act.

Gibbons (1976) sees corruption in terms of politics and believes that political corruption has to do with the way public office forsakes public interest measured in terms of mass opinion in order to ensure that some form of political advantage are achieved at the expense of public interest. A more encompassing description of corruption was given by Akindele (1995) who opined that corruption is a socio-political, economic and moral malaise that is usually holistically permeates all the nerves of any society. The concept of corruption, as observed by Akindele (1995), has ideological, moral, cultural and intellectual discourse. Another simple, uncomplicated and encompassing definition of corruption that is found to be useful is the one that sees the phenomenon as the acquisition of that personal benefits which one (as a member of society not public official alone) is not entitled to (Salawu, 2007).

Corruption, seen from this perspective therefore represents a departure from what the society considers as correct procedures in exchange of goods and services on the part of everybody that makes up the society. The implication is that corruption is seen in various societies from the perspective of the prescribed social life of the people. The proposition is that, while some societies speak of corruption mainly in terms of illegal acquisition of material resources or benefits, others tend to broaden it by attaching social and moral values to it (Metiboba, 1996). The deduction from above is that what someone regards as a corrupt act is seen differently by another person. The 1999 and other previous constitutions established a code of conduct for public officers and made it a political objective for the state to abolish all corrupt practices associated with abuse of power. However, it does not define corruption or give a list of acts that will amount to corruption. It has also been observed that the statutory criminal laws, the criminal and penal codes, do not define corruption. The Independent Corrupt Practices (and other related offences) Commission (ICPC) Act 2000, and the Economic and Financial Crimes Commission (EFCC) Act 2004 have now broadened the definition of corruption. The EFCC act empowers the commission to investigate, prevent and prosecute offenders who engage in: Money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arms deal, smuggling, human trafficking, and child labour, illegal oil bunkering, illegal mining, tax evasion, foreign exchange malpractices including counterfeiting to

currency, theft of intellectual property and piracy, open market abuse, dumping of toxic, wastes, and prohibited goods (EFCC Act, 2004)

This paper agrees with Lipset (1995) that corruption involves a deviation from the laws and regulations with intent to abuse ones public office and obtain private benefits. Second, the resources exchanged in corruption result in material advantages, as when a favourable public decision is paid for with money. Corruption is therefore one form of influence of money on politics. Third, that corruption always involves clandestine transactions as it is an unacceptable form of transaction. Corruption is the giving of a bribe to an official so that the truth will not be told. It involves the embezzlement of public fund for personal use and any act which is considered to be criminal act according to the law of a particular society.

Causes of Corruption in Nigeria

Generally, the major causes of corruption can be linked to the nature of the economy of a particular society. This means that, it is the economic situation of a society that determines the behavioral pattern predominately found in such society. The nature of the Nigerian economy and the way it has been managed largely account for the mode of economic behaviour of the various actors in Nigeria. Strictly speaking, the following are causes of corruption in Nigeria.

- (a) Poverty: the current rate of poverty in Nigeria stood at 54 percent (NBS 2018). Therefore, people believe that corruption is heightened by the pervasive and chronic poverty, high level of material deprivation and other structural inequalities. Considering this Shamija (2006) asserts that, corruption is a mechanism adopted by Nigerians to cope with or avert poverty, particularly in the urban centres where the high cost of living may be an inducement for corruption. In a situation where there is inadequate wages and non-payment of salaries in most cases to workers, corruption provides a means of augmenting one's legitimate income. To justify the above, Ayua (2001) notes that, there is low and declining civil service salaries and promotion that is not based on performance, dysfunctional government budgets and delays in the release of budgets funds, including pay. He asserts that under such conditions and circumstances officials deliberately refuse to act or delay action in order to coerce some payment out of citizens or firms.
- (b) Cultural Foundations: Bedford (2000) in an attempt to contextualize Nigerian corruption identifies tribal loyalties as the foundation of corruption. Therefore, our culture seems to fuel some corrupt practices. The sharing of bribes and favours has become the order of the day; there is hardly the motivation to become honest. This has become a subculture where corruption is accepted to be the normal course of life with the obvious risk of it becoming institutionalized. The traditional culture has internalized the concept of the "big man" marked by ostentations wealth and numerous clients, retainers, and hangers-on. The concept of "big man" here refers to a person with several dependents that he must provide for them, own houses and fleet of cars appropriate to his status. This explains why many Nigerians indulged in corrupt practices. Again, pressure from extended families combined with ethnic loyalties provides fertile grounds for the growth

of corruption. These pressure forced officials to indulge in sharp practices in order to find employment for their kinfolk whether they have requisite skills or not. Ethnic groups also jostling for precious administrative and economic positions usually forced by whatever means possible to gain access to and control over strategic areas of administration and economy. Once in these positions all methods (whether legal or illegal) are employed to ensure that their kinfolk have what is referred to in Nigeria's parlance as "our share of the national cake", not minding whether it is fair or whether the imbalance so created is blatantly unreasonable (Ayua 2001).

- (c) Inability of Government to sanction Corruption: Shamija (2006) observed that, the seeming reluctance of government to sanction corruption creates the impression of support. Media report show that government is fond of setting investigation panels and commissions of inquiries whose investigations or findings and recommendations are never made public nor implemented. For instance, the move by EFCC and ICPC in fighting corruption has not yield expected fruitful results.
- (d) Weak institutions of government: another breeding ground for corruption in Nigeria is our weak institutions of government. Corrupt tendencies are further enhanced when governmental institutions are weak. For example a tax imposes confiscation rates may fuel bribe-taking behaviour, as tax payers will prefer to bribe and pay less tax. This brings to mind the administration of the pension scheme in Nigeria which was been characterized by embblezzement and outright misappropriation of funds (This Day, March 27, 2007).
- (e) Lack of Example leadership: this is a central cause of corruption in Nigeria. Lack of exemplary leadership is a problem that has lingered since Nigeria's independence. Both civilian and military leaders have had selfish motives for their decisions and policies instead of the interest of the nation. As Achebe (1983) expressed: "The trouble with Nigeria is simply and squarely a failure of leadership... The Nigerian problem is the unwillingness or inability of its leaders to rise to the responsibility or the challenge of personal example which are hall marks of true leadership". This assertion reveals that, there is problem of leadership in Nigeria. The successive leaders that have ruled this country lack the will of fighting corruption rather they indulged in corrupt practices to better their living at the expense of the poor.

Effects of Corruption

The negative consequences of corruption are many, and among them are:

- a. Poor investment
- b. Rise in poverty
- c. Poor national development
- d. National crises

a. Poor Investment

Unemployment in Nigeria would have been eradicated to some extent if only investors were attracted to it. Companies that would have invested in Nigeria are afraid because they do not know if the corrupt practice will ruin their industries in time. Because of this, they refuse to invest in Nigeria.

b. Rise in Poverty

When the heads of public service are busy laundering the money that is supposed to be used to create employment for the masses and reduce poverty, what happens is that there will be a rise in the poverty level of the country. Just like the rise in poverty as statistically shown between 2004 and 2008. Since the government is selfish and does not want to help the poor, poverty continues to rise in Nigeria.

c. Poor National Development

Any country with high corruption is likely to experience developmental bankruptcy. A situation where some CEOs indulge in corrupt practices to make their money means that economic development will suffer. When Nigerians keep on shifting the country's currency to foreign countries, there will be less economic development in Nigeria.

d. National Crises

So many crises in Nigeria today are as a result of corruption. The insecurity in Nigeria brought about by Boko Haram is a consequence of corruption. Corrupt politicians are fighting the government of President Goodluck Jonathan using Boko Haram as their agent because they do not want him to succeed. The attacks by Boko Haram have caused disorderliness in Nigeria and seriously affected the economy of the country.

The Role of Economic and Financial Crimes Commission (EFCC) in Combating Corruption in Nigeria

The historical background to the existence of the Economic and Financial Crimes Commission derives from the recognition from the late 1980's of the need to create a special interventionist agency to investigate economic and financial crimes. At that time, the menace of Advance fee Fraud, with its negative impact on Nigeria had been recognised. At the same time, it was recognised that the sophistication of economic crimes were such that there might be the need for a special Commission to handle its investigation and prosecution as opposed to the regular law enforcement agencies.

By 2002, Nigeria found its way in the Financial Action Task Force's list of Non-Cooperative Countries and one of the conditions for being taken off that list was compliance with Recommendation 26 of the FATF's then 49 recommendations, which required the creation of a Financial Intelligence Unit. Consequently, the EFCC was created in 2002 and Nigeria's Financial intelligence Unit domiciled therewith. The Statute creating the EFCC was first enacted in 2002 and subsequently re-enacted in 2004. The EFCC started operations in 2003.

The Statute creating the EFCC vested it with the mandate to:

- 1. Investigate and prosecute economic and Financial Crimes. Section 47 of the enabling acts sets out financial crimes to cover several issues such as bank frauds, tax evasion, capital market fraud, futures market frauds, etc.
- 2. Be the national coordinator for anti money laundering.
- 3. Be the designated Nigerian Financial Intelligence Unit.
- 4. Implement the provisions of the Advance Fee Fraud Act, Failed Banks Decree, Money Laundering Act and the Banks and other Financial Institutions Decree.

From a practical point of view, the EFCC sees it s mandate as the provision of financial security for the Nigerian economy. It implements the mandate through tackling those menaces such as official corruption, tax evasion, bank fraud, Advance fee fraud, illegal bunkering and several other shades of economic crimes that can distort key economic indices and inhibit growth. It also seeks to create a level playing field for all stakeholders within the Economy.

Successes Recorded by EFCC

Since Buhari took over power, the war against corruption has been gathering momentum. Many prominent people who believed to be sacred cows have been bundled into detention facilities by the Economic and Financial Crimes Commission (EFCC). Since the beginning of the year, a number prominent people have been arrested in the ongoing fight against corruption. Those who are guilty of looting the nation's treasury and have not yet been arrested are in fear of being picked up at any time by the anti-graft agency. Those who have already been arrested have given very startling revelations on how the nation's treasury was plundered. Nigerians found out that the sum of \$2.1 billion meant to procure arms to fight the menace of Boko Haram insurgency were diverted and shared among top politicians. In the arms purchase scandal alone, the EFCC has arrested and grilled over 20 persons. Others have been invited by the commission to answer questions on alleged corrupt practices. Below is a list of people who have been arrested this year by the EFCC as the fight against corruption wages on among others which not included here:

Olisa Metuh

On Tuesday, January 5, operatives of the EFCC stormed the Abuja home of the spokesman the Peoples Democratic Party (PDP), Chief Olisa Metuh and whisked him away. Metuh was implicated in the \$2.1 billion arms contracts as the EFCC traced N1.4 billion to the account of a company allegedly linked to him. He is also facing a seven counts charge of money laundering involving the sum of N400m, part of the \$2.1bn arms fund. Appearing for his trial in court, the PDP spokesman was brought in handcuffs which sparked criticisms from his party. The party wondered why he was brought in handcuffs when his case was not bordering on security threat. He was remanded in Kuje prison. After weeks of detention, he was released in the evening on Thursday, January 28 after meeting his bail condition.

Lawal Jafaru Isa

On January 7, reports filtered in that Isa, a former military governor of Kaduna State and chieftain of the ruling All Progressives Congress had been arrested by the anti-graft agency. His arrest got a lot of people talking being that he was the first chieftain of the APC to be arrested by the EFCC in the probe into the alleged diversion of \$2.1 billion meant for arms purchase by officials of the immediate-past administration. He was later released after he returned his own part of the loot.

Emeka Mba

On Monday, January 11, Mba, the director-general of the Nigerian Broadcasting Commission (NBC) was arrested by the anti-graft agency over an alleged N15 billion fraud. He was picked up in Abuja and taken to the anti-graft agency's headquarters where he was interrogated. Sources said EFCC agents traced some money to a secret account in an unnamed bank after weeks of investigation.

Jide Omokore

Reports surfaced on January 27, that the EFCC had arrested Jide Omokore, an ally of former president, Goodluck Jonathan and chairman of Atlantic Energy Drilling Concepts Nigeria Limited. His company was said to be one of those that got multibillion dollar worth of public assets without due process by the Jonathan government in 2011. He was released the next day after giving his statement.

Tom Ikimi

On Friday, February 5, there were reports that Tom Ikimi, a former chieftain of the All Progressives Congress (APC) and ex- minister of foreign affairs to late Nigerian dictator General Sanni Abacha had been arrested by the anti-graft agency. Ikimi, who defected from the APC to support Jonathan's bid for a second term was allegedly involved in the \$2.1billion arms funds scandal, hence his predicament.

Air vice Marshal R.A. Ojuawo

Today, reports filtered in that Ojuawo, a military chief believed to be involved in the controversial \$2.1bn arms deal was arrested at the Nnamdi Azikiwe International Airport, Abuja, on his way out of the country by the EFCC. Within the last six months, the Economic and Financial Crimes Commission, EFCC, secured more than 140 convictions and recovered billions of dollars in stolen funds from unscrupulous individuals, the anti-graft body's chairman, Ibrahim Magu, has said;

The Attorney-General of the Federation and Minister of Justice, Abubakar Malami, SAN, yesterday, said the Economic and Financial Crimes Commission, EFCC, has so far recovered more than \$2 trillion (about N400trn at current exchange rate) looted from the national treasury. Of the huge funds he said were stolen by "criminal groups and public office holders" within the past 12 years, the AGF said it was estimated that in 1998 alone, the late former Head of State, General Sani Abacha, laundered over \$2million. The AGF, who made the disclosure in a keynote address presented at the 'First Annual Conference

on Financial Fraud, Cyber-Crime & Other Cross-border Crimes', in Abuja, yesterday 16th April, 2018, said President Muhammadu Buhari has vowed "to recover the fortunes that criminals have made illegally by returning every penny that belongs to the Nigerian public." (https://www.vanguardngr.com/2016/02/money-laundering-efcc-recovers-looted-2trn-in-12-years/).

Criticism of the EFCC

Inevitably, the Commission has continuously found itself in the eye of the storm as a result of executing its mandate of providing financial security for the Nigerian Economy. This is only to be expected in a country boasting of Nigeria's diversity. The Commission is serially being criticised for operating outside the bound of law and infringing human rights. While this is arguable, under my watch there has been a concerted effort to respect the rights of individuals and ensure that suspects are charged to court promptly, eschewing illegal detentions, this has led to greater operational efficiency within the Commission.

Secondly, the Commission is perceived to be a tool of any incumbent president in dealing with political opponents and it is invariably accused of selectivity in investigations and prosecutions. The position of the Commission has always been that in a country where corruption is entrenched, it is impossible to commence the prosecution of all and sundry at the same time. In any case, the issue of selectivity is adjectival in nature under the circumstances.

Thirdly the Commission stands accused of playing to the gallery. It is always pointed out that suspects are arrested, investigated and brought to court with so much fanfare and thereafter the case appears to wither away. While these points may be valid, it does not amount to playing to the gallery and indeed shows a misunderstanding of the mandate of the Commission. Rather, this state of affairs exposes the structural weaknesses in the administration of justice in Nigeria. The Commission is not a judicial body and indeed should not be a judicial body. Its functions are limited to investigation, filing charges in court and thereafter diligently monitoring the prosecution of the case. In practice, defence attorneys appear to have perfected the art of delaying trial of cases rather than addressing the substance of the charges against their clients. Consequently all shades of interlocutory applications are filed and litigated all the way to the Supreme Court and back. In virtually all of the cases of politically exposed persons that the Commission has filed, these interlocutory applications tend to take upwards of 5-6 years to dispose of and the impression created in the minds of most observers is that the Commission is only playing to the gallery and was never serious ab initio with the cases.

The Challenges of the EFCC

As indicated earlier, the commission operates within a rough terrain and it is only its doggedness that has ensured the results that it has posted. The key challenge of the Commission has been the absence of the requisite favourable legislative framework necessary for the success of an anti-corruption war. The first of these constraints is the absence of a special court for the trial of cases of corruption and financial crimes.

Secondly, there is the need for a non-conviction based assets forfeiture law. Indeed the barometer for measuring the seriousness of any country is the enactment of this piece of vital legislation. Unfortunately, Nigeria does not have this legislation and several attempts to introduce it have proved futile. If the Commission can boast of a recovery of \$11 billion in 7 years, without this law, then definitely it will do better once the legislation is enacted. The case for the law becomes stronger in view of the unnecessary delays in trials.

The next challenge the Commission faces is weak funding and capacity building structure for its staff which is a derivative of the former factor. It must be accepted that fighting corruption is expensive. It must also be accepted that the investigation of specialised economic crimes can only succeed where the officers are suitably and adequately trained. Outdated laws within Nigeria have not been helpful to the anti-corruption fight. Nigeria's evidence Act was enacted in 1945 and is out of touch with modern day commercial realities. For instance, electronically generated evidence is not admissible and in today's world, it makes the job of establishing criminality a herculean task. Further, the Penal and Criminal Codes of Nigeria are over 50 years old and probably drafted for an age when the country faced "lesser" crimes such as simple theft, house breaking, et al. However the world of commerce and the society has grown more sophisticated. It would have been unimaginable to the draftsmen of the Criminal and Penal Code that anyone can steal in billions of Naira. The practical effect is that not all crimes are recognised. The sanctions contained in these two pieces of legislation are insufficient and this leads to public outcry when a convict who steals billions of Naira is convicted and sentenced to jail terms of two years or even less.

Our experience with certain countries has not been palatable. Consistently countries have not been too cooperative in retrieval of stolen funds and it will appear that peculiar national interest guides cooperation with us. We must understand that the ill effects of corruption does not only affect the origin of the illicit funds but also the receiving countries in the sense that in both locations, funds that have no bearing on productive ventures has either left the economy or has been injected into it. Consequently, there is a major distortion in macroeconomic indices and this should not be accepted. Countries must work better together. According to the UN, around \$148 billion is annually stolen from Africa by the political leaders, the business elite and civil servants with the collusion and conivance of banking industries in Europe and other developed economies.

Conclusion

There is a clear-cut correlation between corruption and economic growth, and if stringent measure is not taken about it, the development of the affected country would be impaired. Corrupt regimes always yield disastrous results. Corruption which is equal to monopoly plus discretion, minus accountability has serious impediment to sustainable development especially in developing countries. It has stolen the wealth of resource-rich nations like Nigeria thereby making people to be trapped in poverty. Even while thinking of some firms/people as if better off through payment of a bribe by most people, the overall effect

of corruption on economic development still remains negative. The more corrupt a country is, the slower it economic growth rate. Corruption is a stigma that destroys the reputation of affected country. It lowers investment thereby lowering economic growth of the country.

Despite the existing challenges facing Nigeria after the establishment of the two major anti-graft institutions (ICPC and the EFCC) by the government in 2000 and 2003 respectively, the reforms have yielded some concrete results with a reduction of corruption levels when compared when EFCC was not established. It is in the rules and practices of governance that the foundations of sustainable development are shaped or undermined. The very basis of development becomes compromised when these rules and practices are not effectively monitored and applied. Development suffers where the rules of governance allow arbitrary resource allocations and the diversion of public resources in defiance of the public good and to the exclusive benefit of corrupt officials, politicians and their collaborators.

The way Forward

The following may help in adding value to the fight against the menace called corruption.

- 1) Special courts should be established to try corruption cases. This will give speed and quick judgment to corruption cases.
- 2) Our criminal and penal laws need review. This is because they were not initially designed to solve the kind of problem we are experiencing in our contemporary society where corruption has become "systemic with the institutionalization of corrupt motivation among various bureaucratic, political and business elites" (Ayua 2001).
- 3) While laws and law enforcement are indispensible, the sustained reduction of systematic corruption requires committed leadership that solves the socioeconomic problems of the people and in turn gets support from the citizens and the civil society.
- 4) Honesty and transparency should be publicly rewarded. This will serve as an encouragement to the society and the upcoming generation that it pays to be honest.
- 5) The family is the micro unit of the society. The message of value reorientation should begin from the family. Parents should endavour to inculcate in their children and wards the character of honesty, dedication and uprightness.
- 6) There should be stringent punishment for those convicted of corrupt acts in our law court. If possible let us take a cue from China where harder punitive measure are placed on convicted criminals. This may definitely serve as a deterrent to those that may want to be motivated by largess from sharp and corrupt acts.
- 7) The teaching of moral studies or instruction in all tiers of education in the country should be emphasized on. Our children should be taught that there is God in heaven who watches and rewards every good act. So, they should embrace discipline and godly contentment, which to me is great again.

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