

# AN EMPIRICAL EVALUATION OF THE LEVEL OF APPLICATION OF GLOBAL ANTI-CORRUPTION INSTRUMENTS AMONG STATE GOVERNMENTS IN NORTH-EASTERN NIGERIA

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## Abstract

Nigeria had experienced several challenges in infrastructural development as a result of this persisted macro-economic problem called “Corruption” which has bedeviled the country for several decades. Several researches have been conducted by Academics, leading to development of some beautiful and useful recommendations but all these efforts are either abused during implementation or completely ignored. Nigeria has enacted many laws formulated several policies and established numerous institutional frameworks to fight corruption in all its ramifications. It is pertinent to note that Nigeria has also being a signatory to a global anti-corruption initiative referred to as “the United Nations Convention Against Corruption (UNCAC).” This study examined the concepts and framework of corruption and anti-corruption in Nigeria, in line with the UN anti-corruption instrument. The main objective of this study is to empirically appraise the level of application of the provisions of the United Nation Convention against Corruption (UNCAC) in the public sector, particularly State Governments in Northern part of the Country. The methodology used in this study included content analysis and field survey. Findings were made that the level of application of the articles of the UNCAC varies among states and that there are weaknesses and non-compliance in the application of some specific articles of this instruments. Recommendations were made that the Federal Government should modify the enabling laws which deal with manifestations of corruption like the Evidence Act, the ICPC Act 2000, the EFCC Act 2002, the Money Laundering Act and that the Federal Government should also restructure some institutions like the EFCC and the ICPC to avoid duplication of functions and enhance institutional effectiveness and independence.

**Keywords:** *Corruption, Anti-corruption, Instrument, UNCAC, Articles, Application.*

## Introduction

Corruption is a macro-economic problem and social disease bedeviling Nigeria, the issue of corruption has been a matter of public discourse in the Nigerian Society. OECD,(2003) and the United Nations Programme Against Corruption(2004) simply defines corruption as “abuse of power, misuse of office or official privileges for personal gain.” Anti-corruption on the other hand refers to a means of providing a tool or an instrument to assist in fighting or reducing corruption, inclusive of the holistic measures or methods used in reducing or fighting corruption pervasiveness and widespread of

corruption.

The issue of corruption has been an area of interest for many Scholars across the globe. For instance; Ruzindana (1999) asserts that corruption in Africa is a problem of routine deviation from established standards and norms of public officials and parties with whom they interact. Petter et al, (2002) and Gbenga (2008) asserts that corruption is contagious, deadly and a retrospective phenomenon which kills a system faster than HIV/AIDS. Corruption poses serious developmental challenges and undermines democracy and governance, it weakens government institution and retards economic

growth as it undermines foreign investment and siphons available resources needed to provide public services.

It is also pertinent to note that there have been many changes in the Anti-corruption Framework of Nigeria since the return to democracy, in 1999. Nigeria, upon return to democracy in 1999 became a signatory to three major global anti-corruption instruments, i.e: the United Nation Convention against Corruption (UNCAC), African Union Convention on Prevention on Combating Corruption (AUCPCC) and Economic Community of West African States Protocols on the fight against corruption (ECOWAS PROTOCOLS). The country has enacted several acts and set many institutions to curb the menace of corruption, as provided by the provisions of these anti-corruption instruments especially the United Nation Convention against Corruption (UNCAC). Technical Unit on Governance and Anticorruption Reforms (TUGAR) in Nigeria has carried out several studies and is still making on-going efforts to address the incidence of corruption and its prevalence in Nigeria.

#### **Objectives of the study**

The main objective of this study is to empirically evaluate the level of application of the United Nation Convention Against Corruption (UNCAC) in Nigerian Public sector, particularly at the level of State Governments in the north-east sub-region. Specifically, the study seeks to evaluate the level at which some North-eastern states comply with the United Nations instrument in reducing the scourge of corruption in their various states. The scope of this study covered the specific requirements of the UN anti-corruption instrument which are applicable to State Governments, especially in Nigeria. The Six States of Adamawa, Bauchi, Borno, Gombe, Taraba, and Yobe constituted the

study population, while a sample of three out of the six states were selected. The time-frame of the study covered a period of four (4) years (from 2008-2011).

#### **Conceptual issues and framework**

This section presents the review of related literatures on the concept of corruption and anti corruption by both individuals and institutions. It covers the individual and institutional conception of corruption, its causes and classifications. In this section, local and international scholarly journals on corruption and anti-corruption were reviewed, including the works of Kaufmann (1997), Klitgaard (1998), Ackerman (1997), Lottemen (2002), Adamu (2012), Grey, (1998), Khan (2005), Williams (2005),etc. This section also reviewed some efforts of the Nigerian Government towards Anti-corruption.

#### **The concept of corruption**

Corruption, according to Encarta (2005), is a dishonest exploitation of power for personal gain and a criminal depravity arising from lust, greed, over anxiety and moral decadence. Khan (2005) put corruption as the misused of entrusted power for private benefit, while Williams (2005), on his own part, viewed corruption as any immoral, illegal and unethical act which include cheating, lying, defrauding etc. The forms, he said, include bribes, cronyism and nepotism, illegal or illicit political donations, kickbacks, artificial pricing and fraud of all kinds.

Severally, the concept of corruption is often misconceived or used interchangeably with the concept of fraud. While fraud is a generic term, corruption is a broad concept which embraces all the multifarious means which human ingenuity and abuse of power can be demonstrated. Fraud can be resorted to be an act of corruption perpetrated by one individual or a group to gain immediate

financial benefit or illegal advantage over another party, by false representations. But corruption in a broad sense is seen as a pandemic life style arising from abuse or misuse of power or authority, which is institutional and systemic. In other words, Corruption is that phenomenon which arises when fraudulent practices is accepted as a way of life or becomes a culture.

In Nigeria today, the prevalence of corruption has created a wide notion at the international arena that Nigeria is a nation of criminals and fraudsters. And corruption is gradually becoming a normal way of life. It is so common that almost every individual cannot wash his hands, starting from the highest political office holders to the individual households; almost everyone perpetrates one act of corruption or the other, according to the capacity of his office or responsibility.

#### **Global anti-corruption frameworks**

Anti-Corruption, UNCAC(2003) described as those mechanism and institutional frameworks that state parties are required to establish, in their effort to combat the various manifestations of corruption. Grey (1998), viewed anti-corruption as the various efforts of governments and civil society organizations to police that monster of development called “corruption.” As mentioned earlier, Global and regional anti-corruption initiatives include the United Nation Convention against Corruption (UNCAC), African Union Convention on Prevention on Combating Corruption (AUCPCC) and the Economic Community of West African States Protocols on the fight against corruption (ECOWAS PROTOCOLS).

In Nigeria today, the legal regime and policy thrust of anti-corruption can be classified into two, viz; preventive anti-corruption instruments and curative anti-corruption instruments. Preventive anti-

corruption instruments refers to those regulations established by enabling laws, accounting standards, guidelines or other pronouncements issued by professional bodies in Nigeria, which guides the management of public funds. These includes; The Constitution of the Federal Republic of Nigeria 1999 as amended, the Finance (Control and Management) Act 1958, the Audit Ordinance 1956, Statement of Accounting Standards issued by the Nigerian Accounting Standard Board under NASB Act 2003 (now; the International Financial Reporting Standards adopted and implemented by the Financial Reporting Council of Nigeria(FRCN), established under the FRCN Act 2011), Auditing Standards issued by the professional bodies, Annual Appropriation Acts, Financial Memoranda, Financial instructions and Accounting circulars which constitutes the bulk of the Nigerian Laws on Public Finance. The Companies and Allied Matters Act 2004, CAP. C20 LFN 2004 and the Banking and other Financial Institutions Act 1991 as amended and the Codes of Corporate Governance for companies and banks are applicable in the private sector. And the curative anti-corruption instruments are the seven anti-corruption laws in Nigeria; the ICPC Act 2000, the EFCC Act 2002, the Money Laundering Act, Codes of Conduct Bureau and Tribunal Act, Nigerian Extractive Industries Transparency Initiative Act, the Fiscal Responsibility Act 2007 and the Public Procurement Act 2007

#### **Causes of corruption**

Corruption in third world countries are caused by either one of three factors, Ackerman (1997), Banfield (1998) and Lottemen (2002) all concurred on the three-causes of corruption but other scholars who failed to differentiate between the concept of corruption and frauds all posited the several

causes of frauds to be causes of corruption. For instance, Grey (1998), opined that fraud is necessitated by the access that an officer gains to resources or decisions for its disbursement. This research wants to agree with the tri-causes of corruption as identified by Ackerman (1997), Banfield (1998) and Lottemen (2002), also construed by Thompson (2009); as institutional causes of corruption and in addition, develops some individual causes of corruption. Therefore, we shall discuss the causes of corruption under two (2) sub-headings; institutional and individual causes:

### **Institutional causes of corruption**

**1. Culture and decadence of the Value system;** Becoming corrupt in third world countries is almost very easy where Nigeria belongs to, because morality is relaxed in the society and most of the time people struggle for survival without assistance from the government. The influence or pressure of polygamy and extended family system that have feelings to fulfill the obligation attached thereto; (Banfield, 1998). Value system also has an impact on corruption in Nigeria, the value system which has become part of the culture is such that the society does not check the background of rich individuals. Once a wealthy man comes up in a society he is instantly given a chair of fame of honour to the extent that a chieftaincy title awaits him in his village or where ever he goes.

**2. Poor Remuneration system;** Nigeria is one of the richest naturally endowed countries in the world but unfortunately one of the poorest paying. The pay package in Nigeria is tied down to monthly salaries and even the monthly meager amount is not even regular, thereby giving room to Civil and Public servants struggling to make both ends meet by compromising their duties to meet up with the exigencies of their daily obligation.

**3. Lack of Sincerity of purpose in fighting**

**corruption;** The lukewarm attitude of the officers charged with enforcing the laws and bring probity has rather aided corruption. The legislature, judiciary, police, law enforcement agents and other public officials sometime treat cases of corruption with lackadaisical attitude especially if such offence involves highly placed and influential persons, no wonder Lottemen (2002) noted that bad leadership breeds corruption.

### **Individual causes of corruption**

Relating corruption with fraud, taking fraud as a variety of corruption at the individual level, the causes of corruption can be referred to as ZOE. By “ZOE”, it is an acronym meaning: Zeal, Opportunity and Exit.

- 1. Zeal**-referring to the intent, the will, the drive or motive of committing fraud, i.e. “Psych” which is instilled in the mind of individuals. It has been observed that Nigerians has the mentality of being comfortable or self fulfilled to acquire wealth even if it means doing so through illicit, fraudulent and corrupt ways. This mentality is instilled in the minds of most people who see corruption as a means of taking their own share of the national cake.
- 2. Opportunity** –referring to the access to financial resources, assets, funds and other endowment which permit the corruption to take place. By access here it means being in appropriate authority to initiate a transaction leading to disbursement or use of resources. For example, an accounting officer having the authority to initiate a transaction, approval and authorize payment will have the opportunities to

abuse such powers and privileges.

3. **Exit**-referring to the escape from law after committing or engaging in any corrupt practice. By exit, it meant physical exit and legal exit. By physical exit, we mean the act of escaping; like running away of a thief and legal exit means going unpunished or buying one's way out of judgment. This exit is facilitated by the judicial system and also the law enforcement agencies. As mentioned earlier, money influences people to change and withdraw their statements at the police stations or in courts of law.

This statement aroused from remote causes of fraud referred to as "MORE" in the work of Grey (1998). This research want to agree with these causes of fraud as rightly pointed out by Grey (1998), "ZOE" as expatiated above is an extension of the phenomenon in Grey (1998), where in his work "MORE" is an acronym construed with the following meaning:

a. **M-Motive**-referring to the motive, the intent, the will or drive of committing fraud, i.e. "Psych" which is instilled in the mind of individuals. It has been observed that Nigerians has the mentality of being comfortable or self fulfilled to acquire wealth even if it mean through illicit or fraudulent means. This mentality is instilled in the minds of most people who see fraud, financial misappropriations and other forms of corruption as a means of taking their own share of the national cake.

b. **O-Opportunity** –referring to the access to cash, assets, funds and other resources which permit the commitment of fraud. By access here, it connotes both physical and authoritative means of being in

appropriate position to initiate a transaction, to give approval, to authorize payment, keeping custody of money or being a cash officer who interacts with physical cash on daily basis.

c. **R-Reward**- referring to the benefit, the status, the respect, the honour and reputation that one will earn in the society, even after acquiring wealth fraudulently. Infact, they are the most celebrated in Nigeria; conferred with traditional tittles everywhere they go, institutions gives them awards, religious bodies call them their respected members and so on. The reward here also connotes the beneficial outcome of the fraudulent practice.

d. **E-Exit**-referring to the escape from law after committing frauds. By exit, it means physical exit and legal exit. By physical exit, we mean the act of escaping; like running away of a thief and legal exit means going unpunished or buying your way out of judgment.

The above elements are the major causes of fraud and financial misappropriation, especially in the Nigerian public and private sectors. It can be construed that one can only perpetrate fraud if he has the MORE of doing so.

It can be seen here that the above individual elements discussed as "ZOE" are the major causes of corruption in the Nigeria public sector. One might therefore posit that a person or a group can only perpetrate corrupt practices if he/they has the zeal, the opportunity and the exit.

#### **Global and regional anti-corruption instruments**

In response to issues of global corporate scandals and corruption, several international organizations like the International Chamber of Commerce (ICC), the Organization for Economic Co-operation and Development (OECD), Transparency

International, etc has made efforts aimed at combating corruption globally. In 1975, the International Chamber of Commerce (ICC) established a committee known as “the Shaw Cross Committee” to make recommendations on tackling corruption. In 1977, the committee drafts the ICC Rules of Conduct to Combat Extortion and Bribery as a basis for corporate action. These rules were revised in 1996 and in same year, the United Nations came up with propositions to combat corruption globally. Earlier in 1995, the Transparency International publishes the Corruption Perceptions Index (CPI), the first ever attempt to publish a corruption league table of nations. Later in 1996, 21 member nations of the Organization of American States (OAS) sign the Inter-American Convention Against Corruption. Member countries who were signatories were required to criminalize domestic corruption and transnational bribery. In 1997, The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is signed (TUGAR, 2010).

Following the collapse of the Enron and the world.com, the US Congress enacted the Sarbanes-Oxley Act aiming to protect investors by improving the accuracy and reliability of corporate disclosures. In December, 2003 Signing of UN Convention Against Corruption was made by the UN member-states and Nigeria was a signatory. The anti-corruption framework in Nigeria had reflects of the UNCAC provisions, particularly in terms of transnational organized crime and corruption within public and private sector. Some of these regulatory frameworks in the country were actually put in place before 2003, when the UNCAC was developed. In addition to the UNCAC, at the continental level, the African Union also in year 2004 adopted the African Union Convention on Prevention on Combating Corruption (AUCPCC) and at the regional

level; Economic Community of West African States Protocols on the fight against corruption (the ECOWAS PROTOCOLS) was adopted.

The UNCAC contains several articles, from article 1 to article 15, stipulating some anti-corruption initiatives which States Parties are obligated to implement. The AUCPCC and the ECOWAS Protocols also contains several articles specifying some specific anti-corruption agenda which member states are required to adopt. Nigeria has several Anti Corruption bodies: the Independent Corrupt Practices and Other Related Offences Commission ICPC, the Economic and Financial Crimes Commission [EFCC], the Code of Conduct Bureau [CCB] and Code of Conduct Tribunal [CCT], and the Public Complaints Commission [PCC]. In addition Nigeria has such other bodies as the Nigerian Extractive Industry Transparency Initiative [NEITI], Fiscal Responsibility Commission, and Office of the Auditor-General for the Federation and Bureau for Public Procurement, all with mandates to prevent corruption. This shows that the legal and institutional framework in Nigeria provide for a basis for preventive and checking the menace of corruption. It is against this background that this study seeks to examine the level of application of these global and regional anti-corruption initiatives in Nigeria.

### **Methodology and methods**

The methodology used in this study includes field survey and content analysis. Data was collected from both primary and secondary sources and the techniques adopted for data analysis and interpretation was qualitative grading using compliance index. This technique is suitable in an empirical appraisal study of this nature (Ogunika & Okafor, 1993), and it utilizes a predetermined index of scores which are assigned to each provision of the United Nation Convention

against Corruption (UNCAC). Whereas the respective articles of the UNCAC are stipulated as variables 1 to 10, denoted as V1, V2, V3.....V10 respectively. The level of application of each variable based on the annual budgets and accounts of the selected states and the field survey conducted were

scored accordingly. The index of 1 was assigned to each variable and the total index score was compared with the expected index score. If each of the ten variables scores the index of 1, this produce a total score of  $1 + 1 + 1 + \dots = 10$ , with application percentage score of 100. The application of the decision rule is shown in the table below:

**Table 1: Criteria for appraising the level of Application in Percentage**

Application Index	Percentage Score (%)	Level of Application
If $A \div B \times 100$ is:	0 —25	Not Applied
If $A \div B \times 100$ is:	26 —50	Weakly Applied
If $A \div B \times 100$ is:	51 —70	Partially Applied
If $A \div B \times 100$ is:	76— 100	Fully Applied

**Source: Adapted and Modified from Kantudu (2006)**

### Results and findings

To determine the level of application of the United Nations Convention Against Corruption (UNCAC) in the selected states of Adamawa, Taraba and Gombe, qualitative grading using Application index was used. The annual reports and budgets of the selected states for 2008 — 2011 were used. An evaluation of the level of application of the various articles of the United Nations Convention Against Corruption in the selected States are provided in percentages and presented in table 2.

**Table 2: Analysis of Application level per Variable for years 2008 - 2011**

States	ARTICLES OF THE UNCAC										A Computed Outcome	B Expected Outcome	Results: A+B ×100 (%)	
	V1	V2	V3	V4	V5	V6	V7	V8	V9	V10				
Year 2008														
Adamawa	1	0	0	0	1	1	1	1	0	0	5	10	50.0	
Taraba	0	1	0	0	1	1	1	1	0	0	5	10	50.0	
Gombe	0	1	0	0	0	0	1	1	0	0	3	10	30.0	
Year 2009														
Adamawa	1	1	0	0	1	1	1	1	0	0	6	10	60.0	
Taraba	0	1	0	0	1	1	1	1	0	0	5	10	50.0	
Gombe	0	1	0	0	0	0	1	1	0	0	3	10	30.0	
Year 2010														
Adamawa	1	1	0	0	0	1	1	1	0	0	5	10	50.0	
Taraba	0	1	0	0	0	1	1	1	0	0	4	10	40.0	
Gombe	0	1	0	0	1	1	1	1	0	0	5	10	50.0	
Year 2011														
Adamawa	1	0	0	0	0	1	1	1	0	1	5	10	50.0	
Taraba	1	0	0	0	0	1	1	1	0	1	5	10	50.0	
Gombe	1	1	1	1	1	1	1	1	1	1	10	10	100	

Key to variables (Articles of UNCAC denoted as variables)

V1: Recruitment, hiring, retention and promotion of public officials (Article 7(1) of UNCAC)

V2: Adequate remuneration and equitable pay scales (Article 7.1(c) of UNCAC)

V3: Appropriate System of Procurement (Article 9.1 of UNCAC)

V4: Distribution of information relating to procurement to bidders (Article 9(1)(a-c) of UNCAC & S.3, 5 and 6 of the Public Procurement Act 2007)

V5: Transparency and Accountability in Management of Public Finances (Article 9.2 UNCAC)

V6: Integrity of Accounting Records (Article 9.3 of UNCAC)

V7: Codes of Conduct for Public Officials (Article 8 (1) of UNCAC)

V8: Public officials making declarations of assets and outside activities (Article 8.5 UNCAC)

V9: Right of access to any information (Article 10 of UNCAC)

V10: Appropriate System of Accounting (ARTICLE 9.3 of UNCAC)

It can be seen on the above table that the level of application differs from one state to another. In 2008, It shows that Adamawa and Taraba states had weakly applied the provisions (articles) of the UNCAC, with a



percentage score of 50% each as shown on the application index table 2 above for years 2008 — 2011. While Gombe state had an application level of 30%, which shows non-application of the articles of the UNCAC.

In 2009, it shows that Adamawa state had partially applied the provisions (articles) of the UNCAC with a percentage score of 60%, as shown on the application index table 2 above for years 2008 — 2011. While Taraba state maintained weak application level of 50% and Gombe state maintained an application level of 30%, which still shows non-application of the articles of the UNCAC.

In 2010, it shows that Adamawa and Gombe states had weakly applied the provisions (articles) of the UNCAC, with a percentage score of 50% each as shown on the application

index table 2 above for years 2008 — 2011. While Taraba state declined to an application level of 40%, which shows non-application of the articles of the UNCAC.

In 2011, it shows that Gombe state improved tremendously from an application level of 30% in 2008, 30% in 2009, 50% in 2010 and 100% in 2011 which shows full application of the articles of the UNCAC. Whereas Adamawa and Taraba states had maintained weak application of the provisions (articles) of the UNCAC, with a percentage score of 50% each as shown on the application index table 2 above for years 2008 — 2011.

In aggregate, the average results for the relevant years are presented on table 3 to determine the overall variation in the level of application of the articles of the UNCAC.

**Table 3: Summary and Average level of Application among States**

States	Adamawa	Taraba	Gombe
Year 2008	50.0	50.0	30.0
Year 2009	60.0	50.0	30.0
Year 2010	50.0	40.0	50.0
Year 2011	50.0	50.0	100.0
Total	210.0	190.0	210.0
Average	52.5	47.5	52.5
Overall level of Application	Partially Applied	Weakly Applied	Partially Applied

**Source: Researcher's Computations (2011)**

Table 3 shows that on the average, Adamawa and Gombe states had partial level of application of 52.5%, while Taraba state had to an average application level of 47.5%, which shows weak application of the articles of the provisions (articles) of the UNCAC for years 2008 — 2011.

On the basis of the foregoing, this study points that the level of application varies among the states of Adamawa, Taraba and Gombe. This is evident in the result which shows that on the average that Gombe state improved from an application level of 30% in 2008, 30% in 2009, 50% in 2010 and 100% in 2011 which shows full application of the articles of the UNCAC.

### **Conclusion and recommendations**

Based on the analysis of data and finding made, the researcher makes the following conclusions:

1. This study discovered that the level of application of the articles of the UNCAC varies among states and the variation differs between that Gombe state and Adamawa/Taraba states. A perusal of the level of variation indicates lack of uniformity in the application of the application of the provisions of the United Nation

- Convention Against Corruption (UNCAC).
2. Findings were also made that in terms of legal framework and enabling laws, the State Governments in North-eastern Nigeria seem to be applying these anti-corruption initiatives, which are mostly provided for in Federal laws like the ICPC Act 2000, the EFCC Act 2004, the Money Laundering Act, Codes of Conduct Bureau and Tribunal Act, Nigerian Extractive Industries Transparency Initiative Act, the Fiscal Responsibility Act 2007, the Public Procurement Act 2007, etc. Findings were also made that there are weaknesses and non-compliance in the application of some specific articles of this instrument like appropriate System of Procurement, distribution of information relating to procurement to bidders, transparency and Accountability in Management of Public Finances, right of access to any information and lack of appropriate System of Accounting.
- 2004, the Money Laundering Act, Codes of Conduct Bureau and Tribunal Act, Nigerian Extractive Industries Transparency Initiative Act, the Fiscal Responsibility Act 2007.
  2. The Independent Corrupt Practices and other Related Offences Commission Act, the and Financial Crimes Commission (EFCC) Act 2004, Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT) Acts should be reviewed and streamlined, to avoid duplication of responsibilities. For instance; institutions like the EFCC and the ICPC should be merged to avoid duplication of functions and enhance institutional effectiveness and independence.

**Based on the conclusion made above, the following recommendations are made:**

1. That the Federal Government should modify the enabling laws which deal with manifestations of corruption like the Evidence Act, the ICPC Act 2000, the EFCC Act

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