

Treatise





on

Solving Nigeria's Endemic
Corruption Burden
In The Political Space

BY



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TREATISE ON SOLVING NIGERIA'S
ENDEMIC CORRUPTION BURDEN
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1. Overview

Nigerians overwhelmingly believe Nigeria to be one of the most corrupt countries in the world, and that is not far from the truth because Nigeria does rank as one of the most corrupt countries globally on the Transparency International's Corruption Index. And not by mere coincidence, Nigeria has the highest concentration of people living in extreme poverty in the world, for which people derisively dub Nigeria the poverty capital of the world.

Surely, corruption is the single most potent driver of poverty in Nigeria, costing the nation over \$600 billion in direct losses and trillions of dollars in indirect losses since Nigeria's Independence. For decades, the effectiveness of the Federal, State and Local government institutions, measured against capacity, ability and willingness to successfully deliver constitutionally and legally mandated tasks, functions, responsibilities and outcomes, averages just about 35%, and with average value- for-money, on government expenditures, measuring also about 35% over this period. This delivery/value-for- money deficit brought on mainly by corruption, grossly undermines the institutional capacity and functional legitimacy of government, crushes socioeconomic development, breeds disease, illiteracy, unemployment and mass poverty, dissuades foreign direct investment, erodes trust in democracy and in the tiers and organs of government, entrenches undue ethno-religious attachment, chauvinism and intolerance, denies the nation the ability to mobilize the patriotic instincts and zeal of her citizens and above all, unleashes a mind boggling murderous insecurity.

By the way, I do not write as an anti-corruption crusader. How could I? As a member of the political and authority class, I am not worthy so to do. All persons who have ever held political office or authority in Nigeria, elected, appointed, civilian or through military action, share in the collective responsibility for this burden. To paraphrase President Harry Truman, the buck stops here, with us, the political class. And following a few pegs down the rungs of the ladder of blame, is the public officer class, then the business elite, and so on....

Corruption deeply rooted, permeates every fabric of Nigerian life, yet we all speak of corruption in terms of saints and sinners, that is, us being the saints, and others, the sinners. So sorry, but we are all sinners.

James Madison, one the founding fathers of America, philosophized the issue of angels and sinners in a polity when he wrote in the Federalist Papers, "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary...."

Regrettably there does not exist any magic or silver bullet that could kill Nigeria's endemic corruption with one shot. However, such malignancy requires a bold action on an epic revolutionary scale and ingenuity. We, however, should employ new philosophical tools in this fight, starting with the political and authority class, at the very least, psychologically acknowledging responsibility for the malaise. Because only with such acceptance of blameworthiness can we dedicate ourselves to solving the problem and to devising a robust and aggressive plan that would tie us up in knots and drag us away from corruption, kicking and shoving.

Furthermore, since those positive ethical concepts (good, integrity, honesty, loyalty, fairness, patriotism, transparency, compassion, reliability, solidarity, dependability, dedication, mercy, charity, discipline, etc.) are in short supply in Nigeria, the nation's anti-corruption thrust must be reloaded, in the short term to appeal to the emotion of fear. The trepidation and dread of strictly applied penal sanctions.

Just to be clear, the positive ethical behaviors are most desirable, for, therein manifest our humanity. They are indeed the better angels of our nature (kudos to Abraham Lincoln). The Latin maxim, *ecce quan bonum est facere bonum*, sums it up, *behold how good it is to do what is good*.

Unfortunately the fear of punishment we must deploy until good and good faith abound. The Renaissance era political theorist Niccolo Machiaveli espoused it obnoxiously in his book, *The Prince*, that "*It is better to be feared than loved, if one cannot be both*".

Without very much for the people to love in Nigeria today, only the strict application of the anti-corruption laws and measures to the political, authority and bureaucratic classes, would crash corruption, astronomically grow wealth, tremendously increase public service delivery, provide well-being and security, recreate the broken social contract between the government and the people, and rekindle the flames of positive ethical behavioral patterns, love of country, integrity, fairness etc. And by so doing we would move from Machiaveli's abject and cynical realism to the idealism in our humanness, to the liberalism of a properly functioning plural democracy and its norms, and to leaders that best align with

Plato's *Republic* Philosopher King, those leaders that are learned, endowed with intellectual acuity and curiosity, benevolent, just, kind, patriotic, altruistic, and filled with noblesse oblige.

To achieve these, please behold my anti-corruption plan and policy prescriptions:

2. Effectuating the total independence of the anti-corruption agencies from political influence.

The current situation is such that the political class appoints, confirms, suspends, removes at will, the chief executive officers and commission and board members of the anti-corruption agencies. In other words the agencies set up mainly to tackle the corruption of the political class are controlled by the politicians. What a nice arrangement !

Not surprising, accusations of bias, partisanship, nepotism, favoritism and so on, have for a very long time, rightly or wrongly dogged anti- corruption agencies and the public prosecution department of the Federal Ministry of Justice and tainting the fight against corruption with a major perception problem and sapping the confidence of the majority of Nigerians and the international community in the effort. The larger issue here has little to do with the veracity or otherwise of the accusations but simply the fact that those are widely held views.

We must therefore retool and recalibrate the personnel, investigative, prosecutorial and enforcement structures of the anti-corruption agencies, including the Department of Public Prosecutions of the Federal Ministry of Justice, in a manner that makes them truly independent, and strengthens their

capacity to hold anyone especially the public officers accountable, including the President. Yes the President. The institutional capability to hold the President accountable is the litmus test of independence in this regard. If the president could be held accountable who among us could be spared?

Despite the constitutionally granted presidential immunity against prosecution, the President could and should be held accountable through investigations and consequent reports, which reports can catalyze impeachment proceedings.

The Department of Justice of America has a convention against indicting a serving president, but the American Presidents get subjected to investigations. In fact not even Ulysses Grant's legendary American Civil War hero status could save him from corruption investigations during his presidency soon after the Civil War.

And as President, Warren Harding was investigated for the Teapot Dome corruption scandal.

Spiro Agnew resigned as Richard Nixon's Vice President following corruption investigations, Nixon then appointed Gerald Ford to replace Agnew. Nixon himself then resigned as president in disgrace following investigations into his Watergate scandal. Gerald Ford then became the President and pardoned Nixon so as to protect the dignity of American presidency. Angered by this pardon the people voted Gerald Ford out of office.

Bill Clinton was impeached for telling a lie of a personal nature during an investigation. For Donald Trump he was subject to at least six different investigations during his presidency.

Clearly America holds her presidents accountable because of her enduring strong institutions while Nigeria has very weak institutions but very strong men and women.

To build strong anti-corruption institutions we must remove

all political influence from the composition and the operations of the agencies, and to achieve that, it has become necessary that the President and the National Assembly should lose their power of appointment, confirmation and termination of membership of persons in Independent Corrupt Practices Commission (ICPC), Economic and Financial Crimes Commission (EFCC), Code of Conduct Bureau (CCB), the proposed Directorate of Public Prosecutions (DPP), and the Nigeria Financial Intelligence Unit (NFIU). Accordingly, the enabling laws of ICPC, EFCC, CCB DPP (relevant constitutional provisions relating to CCB and DPP) and NFIU should be amended to bring about the following:

2.1 Making the membership of the agencies ex officio.

I propose that the membership of the Commissions or Boards of the Agencies should be Ex-officio. That is, by reason of the appointee being a member of a prescribed organization and elected by that organization to serve as a member of the Commission or Board, and no longer through an appointment by the President and confirmation by the National Assembly.

Therefore I do propose further that the membership of ICPC, EFCC, and CCB should be composed for each as follows:

- A member of the Nigerian Bar Association – NBA, elected for that purpose by NBA.
- A member of Institute of Chartered Accountants of Nigeria- ICAN, elected for that purpose by ICAN.
- A member of Academic Staff Union of Universities-ASUU, elected for that purpose by ASUU.
- A member of Academic Staff Union of Polytechnics-ASUP, elected for that purpose by ASUP.

- A member of Nigerian Labour Congress-NLC, elected for that purpose by NLC.
- A member of Nigerian Union of Journalists – NUJ, elected for that purpose by NUJ.
- Four persons nominated by the United Nations under the hand of the Secretary General and under a bilateral treaty.
- Two persons nominated by Transparency International under a bilateral agreement.
- Two Nigerians in diaspora from Civil Society engaged in causes relating to probity, transparency and good governance, selected by all the above sitting as the Commission or Board.
- Director General of the agency, appointed by the Commission or Board through an open and transparent process.

2.2 Separating the office of the Director of Public Prosecutions (DPP) from the office of the Attorney General of the Federation and transforming the DPP into an independent Directorate of Public Prosecutions with a full-time Director General and a part-time supervisory Board of Directors

I propose that the Board be composed ex-officio as follows:

- Three members of NBA elected for that purpose by the NBA.
- Three members of ASUU who are Professors of law elected for that purpose by ASUU.
- Four international lawyers nominated by the United Nations under the hand of the Secretary General.
- Two international lawyers nominated by Transparency International.

- Three Nigerians who are lawyers elected by the above persons, sitting as the Board, from Civil Society engaged in causes relating to probity, transparency and good governance, one of whom should be resident in Nigeria while the other two persons should be Nigerians in diaspora. The Director General should be hired by the Board by two-third majority vote.
- The Board should have the power to hire and fire all staff, including the Director General.

Some provisions of the 1999 constitution as amended, particularly section 174, and relevant provisions of Administration of Criminal Justice Act require amendments to achieve the transfer of the powers of the Attorney General (relating to prosecutions) to the Directorate of Public Prosecutions, and also to remove the powers of the AG to taking over or terminating a prosecution.

2.3 Transforming Nigeria Financial Intelligence Unit (NFIU) into a legislatively established independent agency.

The commission members of ICPC and EFCC should comprise the members of the board of directors of NFIU with the power to hire and fire all staff, including the Director General.

2.4 Introducing internal checks and balances within the anti-corruption agencies by creating two level structures.

Power tends to corrupt and absolute power corrupts absolutely. (Kudos to Lord Acton).

The present situation whereby most of the agencies have executive chairman in which one person is both the head of the

supervisory commission or board as well as the chief of operations, is obviously inefficient and susceptible to abuse.

Checks and balances must be introduced in the agencies by creating firstly, a supervisory part time Commission or Board level, made up of the above listed ex-officio members, including the Director General of the agency with a part time Chairman elected from among the members, and secondly, an operational level, headed by the Director General. All operations staff should be hired and fired by the Commission or Board, including retaining old staff found suitable.

Two-thirds of the votes of members should be necessary to hire the Director General and Chairman while four fifths of the votes should be required to fire the DG and the Chairman.

A Commission or Board member, may be removed from the agency by four fifths of the votes of the Commission or Board. Where such happens, the nominating organization should elect a replacement.

2.5 Debt relief, foreign aid and foreign direct investment.

It is no secret that Nigeria's finances are in doldrums. With the Ways and Means advances from CBN, the national debt stands at over N61 trillion inclusive of the external debt which is about \$42 billion.

The debt servicing outlays now exceed the nation's retained revenue. In the first four months of 2022 debt service costs swallowed N1.94 trillion while retained revenue stood at N1.63 trillion, showing debt service exceeding revenue by N310 billion. Meanwhile deficit spending in 2023 fiscal year is expected to reach N11 trillion which would most likely shoot up the national debt beyond N70 trillion.

No doubt therefore that Nigeria needs international assistance. The recent government Debt-for-Climate-Swap is a smart debt relief proposal. But having secured a huge debt relief some years ago which we squandered mostly through corruption, we would be best positioned if we rebooted our anti-corruption program and structure in a form that earns the confidence of the international community. Surely nothing would better suit this purpose than a structure in which the international community participates through the United Nations and Transparency International.

2.6 Sovereignty and United Nations' disposition.

I think it wise to clarify right away that the United Nations' nominations of external directors or commission members into our anti-corruption agencies will definitely not violate Nigeria's sovereignty because it is not imposed by any sort of force, rather it is Nigeria as sovereign State that voluntarily applies for these nominations and enters into a bilateral treaty with the United Nations to achieve the objective.

And yes, the United Nations would be positively disposed to accede to Nigeria's request, having undertaken similar exercise in Guatemala and El Salvador.

And not long ago the recently elected President of Honduras, Xiomara Castro, sent a letter to the United Nations in order to request the installation of an International Commission against Corruption and Impunity in Honduras.

The United Nations would choose the best persons for this exercise from Africa, Middle East, Europe, Asia and any part of the world given its wealth of experience and expanse of personnel and resource persons.

3. Accelerated hearing of corruption cases

The Administration of Criminal Justice Act, 2015 (ACJA), a

federal law, was enacted to replace the Criminal Procedure Code and the Criminal Procedure Act, and to pave the way to an efficient and speedy prosecution of criminal cases and dispensation of justice. Most States have passed a similar law applicable in their various States.

Hitherto, the wheels of the criminal justice delivery system had been chronically clogged by unnecessary adjournments forced on the courts by defendants' tricks, incompetent prosecution, and in some cases, acts of collusion between the defendants and the prosecution. There were also the ever recurring applications for Stay of Proceedings to abide the outcome of numerous and frivolous Interlocutory Appeals, often times lasting for many years in the course of a criminal case.

However, ACJA has now made it mandatory that criminal proceedings should be on a day to day basis with only a few numbered adjournments allowed when the day to day proceedings become impracticable, and that applications for Stay of Proceedings shall no longer be entertained.

Notwithstanding, the pace in criminal proceedings has experienced only a marginal improvement. This is in part due to lack of enough judges, making it impracticable to achieve the goal of day to day proceedings, in order to accommodate other cases in the heavily loaded dockets. Nevertheless, the never ready prosecutors do not help matters. Then, there are thousands of pending corruption cases abandoned by prosecuting agencies and departments out of collusion with the accused persons.

It has become imperative to hire more judges, train and designate some over a number of years for corruption cases, and the judges given a practice direction for compliance with the intendment of ACJA for speedy trials. As for the problem of incompetent prosecutors, and cases abandoned due to collusion, the proposed reform of anti-corruption agencies,

particularly the creation of the proposed Directorate of Public Prosecutions, would mitigate that and crank up the wheels of justice.

4. Statutorily extended time to pursue abandoned appeals.

There are many legally weak Ex Parte Orders, Interlocutory Orders and judgments obtained by those accused of corruption against the anti- corruption agencies, which the agencies announced intention to appeal, only to abandon them in order to give "soft landing" to the corruption suspects.

There are over 300 of such "soft landings" and in order to stop such, the enabling laws should be amended to extend time for the prosecutors to appeal in corruption cases, requiring only an affidavit deposing to the fact the failure to appeal was in bad faith.

It should not lie in the mouth of a person who colludes with the prosecution, to complain of inconvenience of a late appeal.

Besides since the provisions of statute of limitations do not apply to prosecution of a crime, the same provisions should also not apply to the State appeals in criminal cases.

5. Cleansing the processes of State pardon for Convicted Public Officers from conflict of interest and insider dealing

Given the very few corruption convictions of high public officers in Nigeria, any State Pardon granted to public officers convicted of corruption under the current laws and procedures regulating the grant of State Pardon and Commutations, would necessarily be highly suspect, controversial, and counter productive in the anti-corruption fight and posture of the government.

Constitutionally, the President is vested with the power to grant state pardon or commutation of sentences to persons convicted of federal offenses. This power is exercised in consultation with and on the advice of the Council of State.

However, the membership of Council of State is grossly dominated by present and former political office holders especially serving Governors.

Consequently, the spate of condemnations that attended the recent pardon of two former Governors convicted of corrupt offenses, was understandable and reasonably foreseeable. It reeked of insider dealing with Governors huddling up with other politicians to facilitate a pardon of their former colleagues and ostensibly setting up pardon machine.

Moreover, with hundreds of thousands of poor Nigerian youths held in prison and detention custody simply for the crime of "awaiting trial", such a pardon seems self serving thereby contributing to the sense of hopelessness and despair regarding the capacity of the political class to change for good, which in turn increases resentment and drives ease of recruitment of the youths into insurrectionist agitation, banditry and other serious crimes.

Above all, such a pardon would furnish intense moral hazard to the nation's public officers, and thereon foster impunity in governance.

A constitutional amendment is needed to provide for a new advisory body composed with non-political ex-officio members and with nominations from Transparency International, charged with consulting with and advising the President on state pardon and commutation of sentences.

6. Enlistment of a zealous participation of the citizenry in anti-corruption fight aided by massive information flow.

"Democracy Dies in Darkness", the motto adopted by the Washington Post in 2017, has an uncertain origin. However what remains certain about the slogan is its strong portrayal of information as the existential foundations of democracy, without which democracy will come to naught.

The democracy that took root in the Greek city state of Athens in 508–507 BC, was direct in nature. When the mob overran and sacked the Spartan puppet Isagoras and brought back Cleisthenes on the saddle, Cleisthenes knew that having tested power, the people could no longer be subjected to Hippias style tyranny nor the benevolent dictatorship of Peisistratus. The people directly took over their affairs, and direct democracy ensued involving all adult male citizens in decision making with all information no matter how little made available to the people. Overtime, as populations grew exponentially, direct democracy became cumbersome, leading to the representative democracy we have in most polities today. The participation of the people in the government of the people, for the people and by the people became even more reliant on information flow to enable the people make informed decisions and to hold their representatives accountable. That is why democracy would die darkness i.e. without information.

In the first world with strong and firmly established institutions, deeper democratic norms, more patriotism, less corruption and much more educated populace, information flow on government and governance processes is robust, with a free and plural press doing the onerous duty of a gadfly. In Nigeria and other third world countries, massive information flow from all government and public matters, acquires an

urgent necessity given the prevalence of very weak institutions and very strong personalities, entrenched and widespread corruption, high rates of illiteracy and poverty. Yet, the people are aware of so little. Very few have the capacity to access information through the Freedom of Information process. Even the few who dare, still come up short.

In the circumstances, the people do not participate in their government nor governance and cannot hold their representatives accountable. It is note worthy that even Richard Nixon, the disgraced American president, in his farewell speech after his embarrassing resignation, uttered the corruption busting memorable lines when he said that "the people have a right to know whether their president is a crook". In this context, the president represents the elected and appointed public office holders.

We must throw open the books to the people, especially the financial books. Why not! The information contained therein belongs to the people. There is no need to file a formal application to get the information that is rightly theirs, and which they need to help them participate in their affairs, their democracy.

I propose, therefore, that the EFCC Act be further amended to make it mandatory at the pain of penal sanction, that all government expenditures including salaries, allowances, overhead, recurrent, capital, debt servicing etc., by all tiers, arms, organs, parastatals, ministries, departments and agencies, be published on the website of the respective entity.

Lump sums must be broken down to the smallest expenditure amount. For example, how much the President collected as salary last month, how much he received as travel allowance from his last trip, the cost of his breakfast this morning, etc.

I am using the President for illustration to show that no expenditure nor person nor office should be exempt.

If a contractor was involved in a procurement or expenditure, the particulars of the contractor and the expenditure should be provided including, the contractor's CAC registration number. Social welfare cash transfer as little as N1,000 must be tabulated along with name of the recipient and the last four digits of his NIN. Any person who because of privacy concerns does not want his or her name published, should not receive money from government.

Such mandatory provisions would help the people to hold public officers accountable and assist the EFCC and other anti-corruption agencies to fight corruption. Any legal challenge against the provision will fail for these reasons and for the fact that the Supreme Court had earlier affirmed the EFCC Act as valid and subsisting.

The military and other security bodies should maintain detailed expenditure reports like other government organs. However theirs can only be reviewed by those with security clearance, which should include the anti-corruption agencies and arms of government with powers of oversight.

7. Aiding the whistle blowers.

The nation's Whistle blowing Program is still in its infancy, developed to just about 2% of its capacity, despite which the program has aided the recovery of over \$140million in illicit funds.

There is yet no specific legislation regulating the program. Instead there is a patchwork of disparate sets of guidelines issued by some government agencies including Federal Ministry of Finance, Central Bank of Nigeria, National Pension Commission, Nigeria Stock Exchange, and the

Securities and Exchange Commission. These guidelines are not comprehensive and are generally weak, and so are the few sections of Investments and Securities Act, EFCC Act, ICPC Act, which seek to protect those who come forward with information.

The Whistle blowing Program, a very essential weapon in the fight against corruption, cannot develop and grow in capacity without a comprehensive legislation offering a detailed framework for identified and anonymous information volunteering, concrete protection of identified informers, due processed collection of rewards, as well as civil and penal sanctions against those who victimize or retaliate against whistle blowers.

The Whistle blower Protection Bill passed by the Eight Senate did not progress to law and was reintroduced for further consideration in 2019 without much progress so far.

Even then, the Senate Bill in its present form does not go far enough. It does not anticipate the explosion of anonymous reporting of corruption in a massive information flow environment, where every government expenditure is published in the "minutest" possible way, and therefore does not provide a frame work for the anonymous effort.

In Nigeria, with 75% of the population spread within the poverty spectrum, the authority structure and power is heightened in potency and is literally far reaching, so that retaliation can come in many more ways than one, directly or indirectly. The vast populations are palpably aware of their vulnerability and would never feel protected enough to come forward no matter what is provided by way of protection in any legislation and no matter how mighty the reward might be. Consequently, in addition to protecting the identified whistle blower, the legislation should create an elaborate mechanism

for anonymous reporting, by mandating the Nigerian Communications Commission to procure the design, mass production and wide distribution of untraceable Whistle blower SIM cards, to be labeled ICPC and EFCC, which would be automatically linked to the special phone banks of ICPC and EFCC respectively. All the anonymous whistle blower needs do, would be to obtain either ICPC or EFCC SIM card, switch his or her regular SIM card with the Whistle blower SIM and make an untraceable and anonymous call.

Whistle blowing should cover all wrongdoing including smuggling, oil theft, vandalism, warehouses storing contraband, illicit funds, bank accounts holding ill-gotten gains, home and abroad, illicit drugs, fake drugs, insecurity and all crimes.

8. Removing undue discretion, and bringing standardization with certainty to public procurement processes.

The Public Procurement Act 2007 (PPA) is 47 pages long. And there in lies the problem. The law meant to remove unnecessary discretion of public officers and to bring the much needed certainty to the public procurement processes has achieved the opposite.

Almost all public procurement processes in Nigeria are rigged. Not surprising because PPA leaves every aspect of procurement to the discretion of the officials of the procuring entity and the Bureau of Public Procurement(BPP).

The operative phrases in the law are, Certificate of "NO OBJECTION" to contract award, and "Lowest evaluated responsive bid". The current procurement process largely involves the procuring entity running to BPP to obtain a No Objection certificate to do their thing outside the regular bid

process or to go through the bid process and finish by awarding the contract to the "lowest evaluated responsive bid". This means that the contract is awarded ultimately not to the lowest bidder but according to the whims, caprices and discretion of the evaluators who determine the responsiveness of the bid. These are the most potent stratagems for rigging contract bids, and insider dealing.

Budget padding (that is the act of inflating budget estimates of an expenditure item with a view to diverting the excess amount) is only possible because of available capability to extract the excess amount through rigged procurement processes. Without rigged contracts there would be no incentive for budget padding because the excess amount cannot come out. The procurement processes must therefore be streamlined and made fraud-proof

The procedure for a bid process should commence with the procuring entity determining the price above which the procurement would be too costly. That is to say, the maximum allowable price for the contract. And thereafter, advertising the call for bids. The bid selection must be in two stages:

- i) Pre-qualification involving the submission of technical bids and bidders' qualifying documents, evaluation and announcement of successful pre-qualified bidders who could now participate in the next stage.
- ii) Submission and opening of financial bids at a pre-announced date, time and venue. At the venue, all financial bids must be submitted at the same time by all bidders, by dropping the bids into an open receptacle such as a basket. The procuring entity must also drop in the same basket, the maximum allowable price. There and then the financial bids and the envelope containing the entity's maximum allowable price are opened and tallied in the presence of all bidders.

The bid with the lowest price must automatically win the contract provided the bid price does not exceed the maximum allowable price. Where all the financial bids exceed the maximum allowable price, the exercise should be repeated to enable the bidders submit their best discounted prices.

It has been argued that the lowest price might not be able to execute the job, making it necessary for the officials to exercise discretion in choosing the winner of the bid. Nonsense! The bid bond/security and Advance Payment Guarantee are two safe guards against frivolous bidding. Besides, any delay or other inconvenience caused by a winning bid not being able to execute the project would be insignificant compared to the hundreds of billions of Naira stolen in rigged contracts.

It should henceforth be made a crime not to adhere to the above proposed transparent process. The relevant offending head of department and accounting officer should be held responsible for any breach.

Any bidder who feels cheated in any part of the process should submit a detailed petition with supporting documents to ICPC or EFCC.

In the light of the above, the PPA should be amended to simplify the process, remove the loopholes that invariably result in insider dealing and rigging of bids, and also drastically reduce the bloated size of the National Council on Public Procurement and the Bureau of Public Procurement.

The criminal aspect should be incorporated into the EFCC Act and made applicable to the 3 tiers of government.

9. Criminalizing Non-Remittance of Operating Surplus by Ministries, Departments and Agencies (MDA)

One of the most perplexing things in our polity is the notion that institutions of government would, even as institutions, defy the law boldly and brazenly in a recurring manner and yet no one is held accountable.

The Fiscal Responsibility Act (FRA) mandates that MDAs shall remit 80% of their operating surpluses to the Consolidated Revenue Fund (CRF) every year.

Sadly, Nigerians have for many years been inundated with reports of failure to remit the operating surpluses to CRF.

The Fiscal Responsibility Commission (FRC) just reported that as at the end of 2021, 32 MDAs failed to remit N1.2 trillion of their operating surpluses to the Consolidated Revenue Fund.

The Senate Committee on Finance recently announced that some MDAs failed to remit over N3 trillion to the consolidated revenue fund (CRF) of the Federal Government between 2014 and 2020.

ICPC also reported that it recovered the sum of 189 billion Naira of unspent wage balances from MDAs in 2 years.

Then there are unending reports of financial lapses by MDAs by the Auditor General of the Federation.

What one rarely hears is that someone has been held accountable for any of these violations of the law. This is obviously because non remittance is not a crime. It should be criminalized.

Accordingly, the Fiscal Responsibility Act should be amended to provide that non remittance of the prescribed operating surplus is a crime against the Federal Republic by those charged with the responsibility. The Chief Accounting Officers and the Directors of Finance of the MDAs should be specifically charged with the function and responsibility of remitting operating surplus of the respective MDAs.

10 Criminalizing non-observance or violation of due process in public affairs

The high point of the anti-corruption fight should be to criminalize non-observance or violation of due process in government related matters, whereby victims and whistle blowers may petition the anti-corruption agencies for investigation and possible prosecution. This would curb large scale looting prevalent in small and large ticket government programs.

In conclusion, I should submit that though the policy outlines laid out in this treatise are not exhaustive, the faithful and diligent implementation of these anti-corruption measures should bring about transparency, stem misapplication of resources, increase average effectiveness of government institutions and average value-for- money on public expenditure from 35% to 90%, restore the peoples' confidence in their government and its institutions, and save the nation about N7.5 trillion directly and indirectly every year, unshackle the strictures on the economic engine imposed by corruption, thereon allowing the GDP to leap by as much as 20% and creating millions of jobs.

May God help us. Amen!

Thank you for reading

Ikechukwu Obioarh

ACRONYMS

1.	ACJA	Administration of Criminal Justice Act
2.	AGF	Auditor General of the Federation
3.	ASUU	Academic Staff Union of Universities
4.	ASUP	Academic Staff Union of Polytechnics
5.	APG	Advance Payment Guarantee
6.	BPP	Bureau of Public Procurement
7.	CAC	Corporate Affairs Commission
8.	CCB	Code of Conduct Bureau
9.	CBN	Central Bank of Nigeria
10.	CPA	Criminal Procedure Act
11.	CPC	Criminal Procedure Code
12.	CRF	Consolidated Revenue Fund
13.	CS	Council of State
14.	DDD	Democracy Dies in Darkness
15.	DPP	Department of Public Prosecutions
16.	DJA	Department of Justice of America
17.	DCS	Debt for Climate Swap
18.	DPP	Directorate of Public Prosecutions
19.	EFCC	Economic and Financial Crimes Commission
20.	FRA	Fiscal Responsibility Act
21.	FRC	Fiscal Responsibility Commission
22.	FMF	Federal Ministry of Finance
23.	FMJ	Federal Ministry of Justice
24.	FP	Federalist Papers
25.	FSLGI	Federal, State and Local Government Institutions
26.	GDP	Gross Domestic Product
27.	ICAN	Institute of Chartered Accountants of Nigeria
28.	ICCI	International Commission against Corruption and Impunity
29.	ICPC	Independent Corrupt Practices Commission
30.	MDA	Ministries, Departments and Agencies
31.	NBA	Nigerian Bar Association
32.	NCC	Nigerian Communications Commission
33.	NCPP	National Council on Public Procurement
34.	ND	Nigerians in Diaspora
35.	NFIU	Nigeria Financial Intelligence Unit
36.	NIN	National Identification Number
37.	NLC	Nigerian Labour Congress
38.	NPC	National Pension Commission
39.	PPA	Public Procurement Act
40.	SEC	Securities and Exchange Commission.
41.	SIM	Subscriber Identity Module
42.	NSE	Nigeria Stock Exchange
43.	NUJ	Nigerian Union of Journalists
44.	TICI	Transparency International's Corruption Index
45.	UN	United Nations

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