

Foreword

Jackie Harvey, Emeritus Professor at Northumbria University

As a major oil producer for well over half a decade, Nigeria should have been a wealthy country. Instead, its per capita income is amongst the lowest on the continent, ranking the country 17th out of 20 economies in 2019¹. It consistently ranks in the bottom quartile for all countries according to Transparency International's Corruption Perception Index (CPI),² a position that has not changed for years. As was succinctly stated in the 'Background' to the Compendium published by HEDA in 2020 '*Corruption has robbed Nigeria of opportunities for development*'. It is not a phenomenon that exists only in the past as corruption appears to be a *continuing characteristic of Nigerian governance and a contributor to its poor GDP per capita*.³ The governance of Nigeria has been the subject of a wide range of publications, for example:

- From the 'top down' perspective this quote from the 2018 Carnegie report:⁴

"Corruption is the single greatest obstacle preventing Nigeria from achieving its enormous potential. It drains billions of dollars a year from the country's economy, stymies development, and weakens the social contract between the government and its people. Nigerians view their country as one of the world's most corrupt and struggle daily to cope with the effects...In Nigeria's political and institutional sectors, electoral corruption and kleptocratic capture of political party structures unlock corruption opportunities across a range of other sectors...the symbiotic relationship between legislative and bureaucratic corruption...influences a disproportionate share of government expenditures."
- From the 'bottom up' perspective this quote from the 2019 UNODC Survey:⁵

"While the prevalence of administrative, mainly low-value, bribery has decreased, the survey results suggest that the Government's anti-corruption agenda, which tends to be focused on large-scale corruption, has so far only marginally affected this type of bribe seeking behaviour. Consequently, a greater effort should be made and more attention paid to the eradication of bribe-seeking of this nature. The implementation of these actions, like those proposed by the National Anti-Corruption Strategy, which are specifically aimed at mainstreaming anti-corruption principles into governance and service delivery at all levels, can support this change."

¹ <https://www.statista.com/statistics/1120999/gdp-of-african-countries-by-country/>

² <https://www.transparency.org/en/cpi/2020/index/nga>.

³ Van Duyne, P.C and Harvey, J. Forthcoming. *Grand corruption in Nigeria: Nigeria's grabbing political elite*

⁴ Page, M. T. 2018. *A New Taxonomy for Corruption in Nigeria*. Washington, DC: Carnegie Endowment for International Peace.

⁵ UNODC. 2019. *Corruption in Nigeria: Patterns and Trends*. Vienna: UNODC.

Against this background corruption seems to be an inevitable '*state of nature*' which reflects a type of psychological resignation that can be found in many countries where corruption is endemic⁶. There is no doubt that corruption is a complex problem with no easy solution. However, it should not be seen as an inevitable '*natural phenomenon*'; it is the outcome of the power to make decisions that circumvent existing rules and criteria to gain an advantage (or its expectation).

I have been leading a project supported by the FCDO-funded Global Integrity Anti-Corruption Evidence (ACE) Programme.⁷ Our project focused upon grand corruption in Nigeria with the objective of assessing and proposing improvements to the identification and tracking of beneficial ownership in Nigeria to increase the likelihood of recovering the proceeds of grand corruption. This project has sought to make practical and practitioner relevant recommendations with the intention of helping the Nigerian authorities. Our study made use of the data collated by HEDA and published in its various compendium volumes. The HEDA produced reports proved invaluable to our study because they constituted the most detailed secondary source of information on corruption in Nigeria we had found.

For the last few years, HEDA has been raising public awareness of the court delays around high profile cases of corruption. Over the period 2018 to 2020 HEDA had highlighted a total of 162 different cases. The cases involve a variety of people in public positions who were accused of grand corruption in one form or another. As we set out in our own report, these included elected politicians holding positions in the executive with the largest single group being State Governors. The cases involving State Governors illustrate the ease with which procurement rules can be circumvented. There were also allegations against, or convictions of, public officials in the central administration, military and to a lesser extent the police. The public corruption took various forms. 'Embezzlement' which included misappropriation, diversion or disappearance of public funds was the most frequently occurring type of grand corruption. The second most common offence is 'Fraud' which included forging documents, fraudulent accountancy and fuel subsidy fraud.

While the data do not support a supposedly united and coordinated network of collaborating high office holders, the system runs on mutually beneficial tolerance and complicity. The main observed pattern is of extracting funds initially via phantom contracts to a shell company account (usually owned by a friend/family member), from which cash is then withdrawn or transferred to several other accounts (sometimes abroad) to either retain or invest (material purchase, property, gifting family/friends). Corruption networks tend to be close and trusted social contacts (including professionals) or family.

⁶ Op. cit., note 3

⁷ <https://ace.globalintegrity.org/projects/benowner/>

There is legislation in place to counter corruption but the implementation of this has suffered. As a result, the operation of the anti-corruption framework in practice faces numerous enduring challenges. These arise principally because of agency overlap and data deficiency⁸. There also appears to have been a seemingly silent unwillingness to pick up and use the available legal tools even if they are imperfect. Previous editions of the compendium have highlighted the reluctance of the courts to fully apply the powers granted through the Administration of Criminal Justice Act, 2015. This current edition has included some 46 new cases that have been brought in front of the courts in the last year. This also means that the other cases reported upon by HEDA continue to feature within the report as ‘on-going’ including 24 high profile cases that were first mentioned in the 2018 edition.

Our review of the cases of grand corruption pointed to continued delays in the prosecution of cases with too many adjournments taking place, sometimes caused by congestion but more often due to appeals or failure of either defendants or witnesses to appear in court. Other cases were dismissed (no case to answer) and acquitted with the judges citing a lack of evidence from prosecution or witnesses. Countering financial crime is highly technical and the courts must be able to grasp the complex financial structures and intercompany relationship evidence. A positive development that will assist prosecutors in evidence preparation is the passing of the Companies and Allied Matters Act (CAMA) 2020. The Corporate Affairs Commission should push ahead with implementing the provisions of the CAMA with respect to disclosure of significant control and beneficial ownership of companies. A further important contributor to corruption prevention is effective asset recovery. The Proceeds of Crime Act should be finalised as a matter of priority.

Corruption is not a natural state of affairs. There are certainly challenges in preventing its occurrence and in pursuing those that are corrupt. These include the general lack of transparency and tendency towards secrecy which compound a systematic data deficiency. Grand corruption has many roots, but opacity is the main condition in which it thrives. The major and ongoing contribution of HEDA is to shine a light on cases, on developments and on outcomes, but most importantly in fulfilling its objective of raising public awareness.

Dr Jackie Harvey
Emeritus Professor of Financial Management
Northumbria University

⁸ Jackie Harvey, Sue Turner, Tony Ward, Peter Sproat and Jonathan Bainbridge (2021). *Transnational Criminal Law: A case study of the international anti-money laundering framework as applied in Nigeria: A case of smoke and mirrors*, GI-ACE working paper 10 available at https://ace.globalintegrity.org/wp-content/uploads/2021/03/Jackie_Harvey-Smoke_Mirrors-1.pdf