

EFFECT OF DUE PROCESS LEGISLATIONS ON THE FIGHT AGAINST CORRUPTION IN NIGERIA

*J.O. Obi and **U.C. Nzewi Ph.D

*J.O. Obi is a lecturer in the Department of Accountancy, Federal Polytechnic Oko, Nigeria

** U.C Nzewi is a visiting lecturer in the Department of accountancy, Nnamdi Azikiwe University Awka, Nigeria

IJMSSSR 2019

VOLUME 1

ISSUE 6 NOVEMBER – DECEMBER

ISSN: 2582-0265

Abstract – The study assessed the Due process Legislations in Nigeria to determine their impact in the fight against corruption. Specifically it sought to determine the extent to which the Public Procurement Act, 2007 and the Fiscal Responsibility Act, 2007 have collectively impacted on the fight against corruption in Nigeria. Ex-post facto research design was adopted for the study. Data on corruption ratings of Nigeria were obtained from the Transparency International while data on Nigeria's gross domestic product were extracted from Trading Economics, an international economy rating organization. Chow test of structural stability model of the ordinary least square method of econometrics regression was used to determine whether the combined effect of the Public Procurement and Fiscal Responsibility Acts have significantly improved Nigeria's anti-corruption rating. Findings show that the two Acts have not made statistically significant impact in the fight against corruption in Nigeria. Findings also revealed that Nigeria's corruption rating averaged 76.25% in the 8 years after the introduction of the due process legislations as against 97.25% in the corresponding period before the due process legislations. The implication of these findings is that a more spirited implementation of the provisions of the legislations will be needed for the Acts to make a statistically significant impact in the fight against corruption in Nigeria.

Keywords: Corruption, public procurement, fiscal responsibility, accountability, transparency.

Introduction

Nigeria quest for sustainable economic growth has been plagued with several challenges over the years. In spite of the abundant human and material resources endowment, and the many and frequently changing fiscal, and other microeconomic policies, the country has not been able to harness the economic potentials for rapid economic transformation and growth. (Ogbole, 2010; Abata et al, 2012). Among the many challenges that impede

Nigeria economic growth, corruption and mismanagement of public finances have remained problematic at all levels of government in the country. Various forms of corruption such as theft, fraud, bribery, extortion, request for kickback, nepotism and political patronage exist in Nigeria.

The major driver of corruption is the discretionary use of funds by the executives and lack of transparency and accountability in the utilization of fund and approval of expenditure (Alade et al, 2003 Human Right Watch, 2001). Dominant individuals (presidents, governors, local government chairmen, chief accounting officers, accounting officers and directors general of government units, managing directors of companies, heads of department, legislators among others) influences the preparation and implementation of budgets in both profit making and non-profit making organization in Nigeria. They are able to overshadow other participants in the budget preparation and impose constraints on items to be considered in the budget. This attitude made it possible for the dominant individuals to determine what they would corruptly realize during the period of budget implementation. The result is that money meant for provision of amenities are diverted. Because the individuals have a lot of discretionary powers, they have a lot of opportunities to divert public fund leaving budget performance low with the attendant decadence in infrastructural provision. (Oke, 2013).

Corruption has been responsible for the instability of successive governments in Nigeria since independence. It makes sustainable development unattainable by breeding and feeding on inefficiency and the strangulation of

social values. In governance, it manifests itself through lack of patriotic spirit, honesty, accountability, hard work and transparency in governance (Alade et al, 2005). Human right Watch (2001) reported that the executive arms of government routinely utilize public funds without properly stated budgets. Legislators, especially, at the state levels are unable to exercise any control and tend to be stooges. Local government leaders often owe political appendages to their governors. In consequence they tend to be complicit in mismanagement of public funds rather than challenge their governors. This development results in arbitrary use of public funds, and high level of fiscal profligacy which pose immense challenges in on microeconomic stability.

Even with the progressive increase in revenue accruing to governments over the last three decades, there have been growing misplacement of fiscal priorities as revenues have been frittered away or diverted to trivial macroeconomic pursuits. (CBN, 2005). Kopits and Craig (1998) argue that better performing countries generally follow more transparent fiscal practices while Tanzi (1998) suggest that the code of good practices on fiscal transparency, if followed, would have the effect of reducing corruption. Both are lacking in Nigeria.

The Fiscal Responsibility Act is designed to strengthen and improve accountability, transparency and fiscal discipline in public sector resources management. (Ezeabasili and Herbert 2013). The Public Procurement Act 2007 was designed to promote integrity, efficiency and transparency in the conduct of government procurement. It was also targeted to reduce corruption and promote increased value for money in the conduct of government businesses in Nigeria

Both the Fiscal Responsibility Act and Public Procurement Act have lasted for 8 years, and it is appropriate to assess the combined effect of the two Acts in the fight against corruption in Nigeria. The purpose of this study therefore is to assess the two due process legislations in Nigeria so as to determine their collective impact in the fight against corruption in Nigeria. Consequently, the following hypothesis will be tested;

H₀. Public procurement and Fiscal Responsibility Acts have not made significant impact in the fight against corruption in Nigeria.

Conceptual Framework

Corruption

Corruption is moral perversion, depravity, perversion of integrity, dishonest proceedings, bribery, debasement or alteration as of language or a text. It is a problem of routine deviation from established standards and norms by public officials and parties with whom they interact. The various types include bribery, private gain, other benefits to non-existent workers and pensioners (called ghost workers), fraud, and other related offences. It is the abuse or misuse of power or positions of trust for personal or group benefit (monetary or otherwise). Oyinola (2011), ICPC Act (1999).

Corruption is a symptom of numerous difficulties within contemporary societies. It usually involves more than one party and takes a form of an organized crime. Corruption is found in the award of contracts, promotion of staff, dispensation of justice, misuse of public offices, positions and privileges, embezzlement of public funds, public books, publications, documents, valuable security and accounts. It can be systemic in nature, affecting the whole life of an organization or society. Corruption diverts development resources for private gains, impact negatively on quality of infrastructure and public service and slows economic growth. (Oyinola, 2011). For these reasons, it is important to take steps to curb corruption to free the society from its grip.

The government has aimed at containing corruption through the enactment of laws and enforcement of integrity systems. Some of such efforts include the Public Procurement Act, 2007, the Fiscal Responsibility Act, 2007. However, despite the enforcement of these acts, international rating agencies still consider Nigeria as one of the most difficult countries to do business, pointing out that facilitation payments to officials is still very much the norm, when acquiring services in the country. GAN Integrity Solutions (2014) noted that tax administration lacks transparency, resulting in high level of tax evasion and in tax officials demanding bribes in return for lower tax rates. The police was also perceived to be one of the most corrupt institutions in Nigeria and the squad responsible for investigating corruption inside the police being reportedly no less corrupt itself. (GAN Integrity 2014). Similarly, the Transparency International in 2014 rated Nigeria as the 136th out of 174 countries evaluated on corruption. In view of the above mentioned comments and corruption ratings, it has become necessary to

evaluate the performance of the due process legislations after more than eight years of their implementation to determine their effectiveness in combating corruption in Nigeria.

Before the coming into effect of the due process legislations in 2004 and 2007, Nigeria had been rated very low by the Transparency International; a Berlin based global civil society organization leading the fight against corruption. The country was rated one hundred and forty-four (144) out of one hundred and forty five (145) countries in 2004, one hundred and thirty two (132) out of one hundred and thirty three (133) countries in 2003, one hundred and one (101) out of one hundred and two (102) in 2002 and ninety (90) out of ninety (90) countries in year 2000. This rating portrays Nigeria as one of the most corrupt countries in the world.

The Due Process Legislations

Nigeria has enacted a number of legislations aimed at reducing corruption, enthrone transparency and embracing global best practices in doing government business. Two of such legislations are the Public Procurement Act 2007, the Fiscal Responsibility Act 2007.

The public procurement Act, 2007

The Public Procurement Act 2007 was designed to promote integrity, efficiency and transparency in the conduct of government procurement. The Act establishes the National Council on Public Procurement and the Bureau of Public Procurement as the regulatory authorities for the oversight and monitoring of public procurements, harmonizing the existing government policies and practices by regulating, setting standards and developing the legal framework and professional capacity for public procurement in Nigeria, with a vision to build and sustain an efficient country procurement system that meets international best practices, ensuring transparency, efficiency, competition, integrity and value for money to support national growth and development.

The Bureau established pricing standards and bench marks; supervises the implementation of established procurement policies; monitors the prices of tendered items and keep a national data base of standard prices; publish details of major contracts in the procurement journal; periodically review the socio-economic effect of the policies of procurement and advice the Council; prevent fraudulent and unfair procurement, and where necessary, apply administrative sanctions. It is required to perform procurement audits and reviews and submit bi-annual report to the National Assembly. It is also required to co-ordinate the relevant training programs to build institutional capacity and has powers to inspect or review any procurement transaction to ensure compliance with the provisions of the Act and determine whether any procuring entity has violated any provision of the Act and debar a supplier contractor or service provider that contravenes any provision of the Act. It has powers to call for such information, documents, records and reports in respect of any procurement activity where a breach, wrongdoing, default, mismanagement and or collusion has been alleged, reported or proved and recommend appropriate disciplinary measure. Another duty of the Bureau it to ensure that all procurements are based on procurement plans supported by prior budgetary appropriations with appropriate provision for funding. Procurements are made by open competitive bidding and where there is evidence of gratification or attempt to do so, such bidder is suspended. Finally, procurement contracts are to be awarded to the lowest evaluated responsive bid, which is the lowest price that meets all the technical requirements and standards as contained in the tender document.

The Fiscal Responsibility Act, 2007

The Fiscal Responsibility Act 2007 was enacted to provide for prudent management of the nation's resources, ensure long term macroeconomic stability of the economy, secure greater accountability and transparency in fiscal operations. The act is designed to improve inter-governmental fiscal co-ordination in the pursuit of greater macroeconomic stability, promote fiscal prudence and sound financial management of public resources. The Act provides legal backing for ensuring compliance with agreed fiscal benchmarks, enabling environment for accelerated economic growth and seeks to curb excessive expenditure and thus, limit the danger of running unsustainable deficits by different tiers of government

The Act established a commission with powers to compel any person or government institution to disclose information relating to public revenue and expenditure; cause an investigation into whether any person has violated the Act and report such to the Attorney-General for possible prosecution of offenders. It requires

government to prepare medium term expenditure framework for the next three (3) years which shall contain macroeconomic projections, underlying assumptions, government policies, strategic economic, social and developmental priorities. It also requires government to prepare an expenditure and revenue framework showing expected aggregate revenue and expenditure to match both, and reduce budgetary deficits. The medium term plan is designed to be the basis for drawing annual budgets and annual cash plans. The Act provided legal standards for management of public revenues, expenditure and debt, including public borrowings. It further provided for the conduct of fiscal and financial affairs in a transparent manner and for prompt audit of accounts to ensure accountability.

Earlier in 2004, the Finance (Control and Management) Act designed to ensure proper control and management of public finances was enacted. The Act empowered the finance minister to supervise the expenditure and finance of the federation to ensure full accounting to the legislature. It also spelt out procedures for the management of the consolidated fund, authorizing issues from the fund and managing losses and investment of government. It further authorizes the Accountant General for the federation to sign and present to the Auditor general, accounts showing fully, the financial position of government on the last day of each financial year for the consolidated revenue fund and other funds specified in the First Schedule to the Act. The Second Schedule to the Act contains detailed rules for the operation of development funds to ensure transparency, accountability, minimization of waste, corruption and mismanagement.

Methodology

Quasi-experimental research design was applied for this study. In quasi experimental design, the researcher is interested in determining what caused certain outcomes but unfortunately he has absolutely no control over the causes (Azuka, 2011). Data on corruption ratings of Nigeria were obtained from Transparency International, a Berlin based global civil society organization. Data on Nigeria's gross domestic product were extracted from Trading Economics an international economy rating organisation. The corruption ratings were converted to percentage of total number of countries rank in the year such that a score of 100% represents the worse ranked country.

Chow test of structural stability version of ordinary least square method of econometrics regression was employed to test the formulated hypothesis. Chow test is a special kind of F test propounded by Chow (1966) and is based on the idea that a series of data can contain a structural break (Damodar and Sangeetha, 2007). In this case, we want to find out whether the time series data on our variables had a structural break following the operations of the due process legislations in 2007. The model uses an F-test to determine whether the perceived structural change has a measurable effect on the study period and the aim is to determine whether a single regression covering the period before and after 2007 is more efficient than two separate regression involving the splitting data into two samples, one representing the period before 2007 and the other for the period after 2007.

Model Specification

A single or pooled regression to fit the whole series of data

$$Y_1 = a_1 + b_1x_1 + u_1$$

Where Y_1 = GDP and X_1 = Corruption rating

Regression for the period before 2007:

$$Y_2 = a_2 + b_2x_2 + u_2$$

Where Y_2 = GDP before 2007 and X_2 = corruption rating before 2007

Regression for period from 2007:

$$Y_3 = a_3 + b_3x_3 + u_3$$

Where Y_3 = GDP from 2007 and x_3 = corruption rating from 2007

Chow statistics is obtained as follows:

$$F = \frac{RSS_1 - (RSS_2 + RSS_3) / k}{RSS_2 + RSS_3 / n - 2k}$$

Where RSS = Sum-square residual

k = Total number of variables included

n = Total sample size

Decision Rule

If the chow statistic is greater than tabulated f-value, then the null hypothesis that there is no structural break or change (that is, there is no significant change) is rejected and vice versa.

The gross domestic product and the computed corruption levels are shown in Table 1 below:

Table 1 Gross domestic Product and Corruption Levels

Year	GDP	Corruption Level %	Year	GDP	Corruption Level %
1999	32.00	99	2007	145.43	82
2000	35.87	100	2008	166.45	67
2001	46.39	99	2009	208.06	72
2002	44.14	99	2010	169.48	75
2003	59.12	99	2011	366.35	79
2004	67.66	99	2012	413.54	75
2005	87.85	96	2013	459.63	82
2006	112.25	87	2014	522.64	78

Source: Researchers Computations from Transparency International and Trading Economics

Pooled Regression (Before and After Due Process Legislations) Result

Model	Sum of Square	df	Mean Square	F	Sign
Regression	176,067.956	1	176067.956	10.709	.006
Residual	230,170.023	14	16,440.716		

Source: Authors Computations using spss version 17

Separate Regression (Before Due Process Legislations) Result

Model	Sum of Square	df	Mean Square	F	Sign
Regression	4,063.808	1	4063.808	18.743	.0059
Residual	1,300.870	6	216.812		

Source: Authors computations using spss version 17

Separate Regression (After Due Process Legislations) Result

Model	Sum of Square	df	Mean Square	F	Sign
Regression	27,551.416	1	27,551.416	1.255	.305
Residual	131,675.904	6	21,945.984		

Source: Author's Computations using spss version 17

Test of Hypothesis

Ho Public Procurement and Fiscal Responsibility Acts have not made any impact in the fight against corruption in Nigeria.

This hypothesis is tested with chow statistic.

Sum of Square Residual for period before 2007 = 1,300.870
 Sum of Square Residual for period from 2007 = 131,675.904
 Sum of Square Residual for the period before and after 2007 = 230,170.023

$$F = \frac{RSS_1 - (RSS_2 + RSS_3) / K}{(RSS_2 + RSS_3) / (n - 2k)}$$

$$= \frac{230,170.023 - (1,300.870 + 131,675.904) / 2}{(1,300.870 + 131,675.904) / (14 - 2 \times 2)}$$

$$= 163,681.64$$

$$132,971.77$$

= 1.231

Table value of F at 5% level at 2 degrees of freedom for numerator and 4 degrees of freedom for denominator = 6.94

Since 1.232 computed value is less than 6.94 the table value, we accept the null hypothesis that there is no structural change, meaning that the Public Procurement and Fiscal Responsibility Acts have not made any impact in the fight against corruption in Nigeria.

Summary of Findings and Policy Implications

The result of the statistical analysis revealed that Nigeria's corruption rating averaged 76.25 percent for the eight years following the introduction of the due process legislations (2007 to 2014) against 97.25 percent for the corresponding eight years preceding the introduction of the legislations (1999 - 2006). The Chow test result showed that the F-value is greater than computed value; therefore, the null hypothesis that there is no structural change is accepted. The implication of this finding is that the implementation of the Public Procurement Act and the Fiscal Responsibility Act in Nigeria have not made significant impact in the fight against corruption in the country. Another implication of the finding is that the institutions responsible for enforcing the legislations may not have implemented the provisions of the Acts sufficiently to produce the desired results.

The policy makers should strengthen and empower the institutions so that they can effectively enforce the provisions of the Acts. Moreover, appropriate mechanisms for whistle blowing, investigation and prosecution should be put in place to pre-empt corrupt acts by public officers. Reward system and protection against victimization of whistle blowers should also be introduced to encourage Nigerians to come up and report corrupt public officers. Finally, stiffer penalties should be introduced to act as a deterrent.

References

1. Abata, M.A, Kehinde, J.S and Bolarinwa S.A (2012). "Fiscal/Monetary Policy and Economic Growth in Nigeria: A Theoretical Exploration". *International Journal of Academic Research in Economics and Management Sciences* Vol. 1 No 5 ISSN 2226-3624
2. Alade S.O., Obajemito J., Rapu, S.C. and Tule M (2003) "Fiscal Federalism and Macroeconomic Governance in Nigeria". *Contemporary Economic Issues in Nigeria*, pp. 47-51
3. Azuka, E.B (2011) *Research Methods; Theory and Applications*, Onitsha:
 - a. Noben Publishers
4. Central Bank of Nigeria (2005). *Brief Series* No 2004-5/10 P 24
5. Damodar, N.G and Sangeetha (2007) *Basic Econometrics* New Delhi, Tata McGraw-Hill
6. Guardian, T.R and Samder D. (2004) "Fiscal Adjustment and Federalism in Brazil", IMF/NIPFP Conference on Fiscal Policy in India. pp. 16-17.
7. Ezeabasili, V.N. and Herbert, W.E. (2013) "Fiscal Responsibility Law, fiscal discipline and Macroeconomic stability: Lessons from Brazil and Nigeria". *International Journal of Economics and Management Sciences*, Vol. 2 No. 6. pp 01-10
8. Human Rights Watch, (2001) "Chop Fine" *The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State Nigeria*, Vol. 19 No. 2 (A).
9. Kopits, G and Craig J. (1998) "Transparency in Government Operations" IMF Occasional Paper No. 158 (Washington: International Monetary Fund).
10. Ogbole, F.O (210) "Fiscal Policy and Management Performance in Nigeria Unpublished Ph D Thesis. Department of Banking and Finance, Rivers State University of Science and Technology PortHarcourt
11. Oke, M.O (2013) "Budget Implementation and Economic Growth in Nigeria" *Journal of Developing Country Studies*, Vol. 3 No. 13
12. Tanzi, V. (1998) "Corruption around the World" IMF staff papers, vol. 45, Pp 559-594 (Washington, International Monetary Fund)