

An Appraisal of the Activities of Economic and Financial Crime Commission (EFCC) on the Administration of Criminal Justice in Nigeria

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Abstract: The Economic and Financial Crime Commission has been perceived as an ivory tower in both the fight against corruption in Nigeria and repositioning the financial mal-adjustment in the Nigeria economy. Since its establishment in 2004, the commission has wielded enormous power in tackling corrupt practices stemming from several convictions of alleged corrupt political officers, tales of trials but with little charges and sentence. The activities of the Commission have become increasingly complicated as a result of it dislodged external structural and functional influence in the administration of criminal justice. Governmental interference, poor leadership of the various successive leaders of the commission and the widespread belief that the disposition and manifestation of the leadership of the commission are politically motivated to favor all time ruling parties in Nigeria have created lacunas in their administration of criminal justice in Nigeria. This study which was anchored on the Structural Functionalist theory stressed that because the leadership of the commission is considered ineffective and lacks the confidence to fight corruption, there is a tendency that Nigeria survival cannot be sustained and for the activities of the commission to be effective and help achieve the survival of Nigeria, there must be a conscious effort by the commission to set aside leadership and ethnic sentiment and objectively fight corruption as it should be. The study concluded that the commission cannot solely fight corruption or ensuring a smooth administration of criminal justice in Nigeria because of the high political interference of the elite, poor leadership and the un-enabling environment of the commission to function and recommended that for the commission to achieved and surpass her current achievements, some level of independence is required.

Keywords: Criminal; Justice; Administration; Corruption; Commission

Introduction

The criminal justice system in Nigeria has been in travails with numerous problems and difficulties making the administration of justice difficult and problematic (Dike, 2008). Corruption, which is seen as widespread in the nation at large, has

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cause mishap to the administration of the criminal justice system. The activities of Economic and Financial Crime Commission (EFCC), the operation of EFCC has become increasingly complicated as a result of the corrupt practice fused in the system (Ethelbert, 2016). Series of corruption-related activities have been recorded since the inception of EFCC (Ekpo, Chime & Enor, 2016) and there are audience of pervasive corruption in the numerous patterns of their administration of criminal justice in Nigeria which stem from fraud offenders/victims (Balogun, 2016) explaining how EFCC operatives demand bribes and large cut to how their operations are guided by political motivation which shows the extent corruption has infested the judicial administration of justice of Nigeria's apex corruption fighting body (Agbaje, 2012).

As a problem of justice delivery, the poor leadership in the EFCC justice system has hindered the low performance of criminal justice administration (Abdullahi, Wakili & Mudashiru, 2015). The leadership of the EFCC is considered ineffective and lacks the confidence to fight corruption (Nwoba & Nwokwu, 2018). Rather than fighting corruption, corruption has engulfed the leadership which makes them lack integrity and worth not even "one penny" (Enweremadu, 2011). Regardless of the countless cases that the EFCC is currently prosecuting both in the court and outside the court, there is a widespread belief that the disposition and manifestation of the leadership of the commission is politically motivated to favor all time ruling party in Nigeria (PDP i.e. between 1999-2015 and APC i.e. from 2015 – till date) and against the opposition parties (Omoroghomwan, 2017, Dike, 2008). EFCC is seen as a tool to silence the voice of the oppositional party's members through instigating and invoking corrupt cases and charges against them.

Institutionally, the criminal justice system has been termed to be full with "technocrats" who are incompetent to manage judicial prosecution. The EFCC has always been criticized for its penchant for high-profile arrests and public "invitations" of prominent suspects to come in for questioning before a criminal investigation was complete (Ohiorhenuan, 2015). But the majority of these high-profile personalities are never punished because of their lack of investigative skills to secure evidence-based prosecution of the offender and couple with the pervasiveness of politically motivated arrest in the commission (Ogunesan, 2015). Having these problems to contend with, the question that provokes inquiry is to

what extent has the activities of the EFCC affected prosecution and the administration of Justice in Nigeria?

Hence this study tries to examine citizens' perception on the activities of the EFCC as they affect prosecution and administration of justice in Nigeria, given the gamut of corruption bedeviling the nation's development and the new leadership style of President Muhammadu Buhari Administration to bring corrupt leaders to justice.

In achieving this objective, this article reviews the conceptual, theoretical and empirical literature on the activities of the EFCC in Nigeria, the EFCC leadership and the administration of criminal justice in Nigeria and citizens perception on how the EFCC prosecute and administer justice in Nigeria.

Material and Methods

Theoretical Explanation

This study is anchored on the Structural Functionalist theory as propounded by Talcott Parsons in the 1930's. One of the assumptions of Parsons (1930) on structural functionalism was that certain functional prerequisite must be arrived at and met for society to survive. In other words, the survivability of the society depends strongly on the functionality of some certain existing functional subsystem because these subsystems are expected to perform their function credibly. Parson (1930) defines functions as a given item or subsystems that help maintain and sustain the whole system. The system which the society is, therefore, composed of a certain arrangement of structures or subsystem undertaking various responsibilities in a coordinated manner to achieve collective societal goals and objectives. Parson (1930) functional requirements of the structural-functional theory are recognized as one of the most sociological creative attempt to ensure a deeper understanding of the general societal process that could improve or detracts progress, growth, and development in the society.

Thus, this theory is relevant to this study because it has helped x-ray the different structures and parts of the Nigeria State, charged with the responsibilities of performance, to ensure and enhance both the manifest and latent survival functionality of the State. As exposed by this study, corruption has been threatening the survival of the Nigeria State, detracting progress, growth and development. One functional structure to address this menace established by the

system was the EFCC saddled with the responsibility of wedging untiring war with corruption. The extent of the performance of the commission in discharging her responsibilities on corruption will strongly influence the nation's progress and development. Within the structure of the Commission, leadership effectiveness plays a key role in achieving in fighting corruption. If the leadership of the EFCC is considered ineffective and lacks the confidence to fight corruption, as observed in the literature, there is a tendency that Nigeria survival cannot be sustained. Therefore, for the activities of the EFCC to be effective and help achieve the survival of Nigeria, there must be a conscious effort by the commission to set aside leadership and ethnic sentiment and objectively fight corruption as it is.

Method

This study adopts an exploratory research design method where articles, books, monographs, and both published and unpublished manuscripts were sourced to gather information. The researcher conducted a desk-based review and discussed the findings on 3 broad sections;

- i. The Economic and Financial Crime Commission (EFCC)
- ii. EFCC Leadership and the Administration of Criminal Justice in Nigeria
- iii. EFCC and the administration of criminal Justice in Nigeria

Thereafter, conclusion and recommendations were made.

Results and Discussion

Conceptual Analysis

The EFCC is making significant efforts towards effective management and control of corruption in Nigeria (Samuel, Aju & Elaiwu, 2014). Yet it appears as if nothing is being done. It is indeed factual that the Agency is faced with a multiplicity of challenges in executing this onerous task.

The structure of the Nigerian society from its inception as a socio-political and economic entity has been shaken and is still being threatened by the phenomenon of corruption (Samuel, Aju & Elaiwu, 2014). In recognition of this, the colonial

administration in fashioning outlaws for the various component units (regions) which constitutes it un-mistakenly enshrined legislation against it in the constitutions of these areas.

The Economic and Financial Crime Commission (EFCC)

The Economic and Financial Crime Commission (EFCC) stands tall as the apex corruption fighting body in Nigeria commanding high regards among Nigerians and the International Community due to its exclusive mandate to address and arrest the menace of corruption killing the virtue of Nigerian sustainable development (Samuel, Aju & Elaiwu, 2014). It will be right to point out that Corruption is the biggest killer disease cancerous to the development of Africa; manifesting as a mediocre for Africa achieving sustainable development in infrastructure, Education, Medicare, Roads, and Housing (Ubabukoh, 2015).

The call for the establishment of an anti-graft agency like EFCC was a call to overturn the lingering but enduring menace of underdevelopment triggered by corruption in Nigeria. The EFCC has stood as a sole proprietor waging war against corruption in Nigeria and in the history of Nigeria, there has been no time so much demand is placed on a single institution or agency of government like the EFCC. EFCC has over the years assumed longer status, grown to be perceived in the eyes of Nigerians as a problem solver by even those outside the commission mandate (Samuel, Aju & Elaiwu, 2014). This misplaced mandate heavily placed on the shoulder of the EFCC may not be necessarily unconnected to institutional structural failure in Nigeria.

The commission was established in 2002 following Nigerian's compliance with 26 out of the 49 Financial Action Task Force List of recommendations required for the establishment of a Financial Intelligent Unit (FIU) (Ugwuja, 2016). EFCC, becoming the FIU of Nigeria started operation in 2003 after its establishment with the statutory mandates to:

- i. Investigate and prosecute economic and financial crimes issues such as bank frauds, tax evasion, capital market fraud, future market fraud;
- ii. Be the national coordinator for anti-money laundering;
- iii. Be the designated Nigerian Financial Intelligence Unit;
- iv. Implement the provisions of the Advance Fee Fraud Act, Failed Bank Decree, Money Laundering Act, and other financial institutions decree.

Therefore, the EFCC obligatory mandate of providing financial security for the Nigerian economy was implemented through tackling menaces such as official's corruption, tax evasion, bank fraud, illegal bunkering and other economic crimes disturbing key economic indices and inhibiting growth in Nigeria (Nwoba & Nwokwu, 2018).

Looking at the establishing mandate of the EFCC, it will be unnecessary to doubt and question the manifest and latent performance of the EFCC because the very need for development is what the commission was established for. However, how do the activities of the EFCC look for these few years of her establishment?

Activities and Performance of the EFCC:

Many believe that despite the hustle and bustle surrounding the administration of justice of the EFCC in Nigeria, the activities of the commission tend to be astounded when faced with the performance indicators and operating under a relatively harsh socio-political and economic environment known for corruption inclination (Nwoba & Nwokwu, 2018). Judgments in favour of the commission claimed EFCC has grown to become a primer Africa Anti-Corruption Agency and its assets recovery level arguably placed the commission unparalleled among any other agency globally.

The activities of the EFCC in combating corruption in Nigeria are within the legal framework that spells out its powers and functions which is based on the EFCC Act of 2004 as clearly stated in Ethelbert, (2016) and as follows:

- i. The enforcement and the due administration of the provision of the Act;
- ii. The investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit and fraud, contract scam, etc.
- iii. The co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;
- iv. The adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crime related offences or the properties the value of which corresponds to such proceeds;
- v. The adoption of measures to eradicate the commission of economic and financial crimes;

vi. The adoption of measures which include coordinate, preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;

vii. The facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradication of economic and financial crimes;

viii. The examination and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies, or groups involved;

ix. The determination of the extent of financial loss and such other losses by government, private individuals or organization;

Ethelbert, (2016) also observed that when the EFCC collaborate with other government bodies both within and outside Nigeria, they carry out functions wholly or in part concerning-

i. The identification, determination of the whereabouts and activities of persons suspected of being involved in economic and financial crimes;

ii. The movement of proceeds or properties from the commission of economic and financial and other related crimes;

iii. The exchange of personnel or other experts;

iv. The establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transaction and person involved;

v. Maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents, or other items or assets involved in economic and financial crimes;

vi. Undertaking research and similar works with a view to determining the manifestation, extent, magnitude and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same.

vii. Dealing with matters connected with extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving economic and financial crimes;

viii. The collection of all reports relating to suspicious financial transaction, analyze and disseminate to all relevant government agencies;

ix. Taking charge of, supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offences connected with or relating to economic and financial crimes;

- x. The coordination of all existing, economic and financial crimes investigating units in Nigeria;
- xi. Maintaining a liaison with the office of the Attorney-General of the Federation, the Nigeria Customs Services, the Immigration and Prison Service Board, the Central Bank of Nigeria, the Nigerian Deposits Insurance Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions involved in the eradications of economic and financial crimes;
- xii. Carrying out and sustaining rigorous enlightenment campaign against economic and financial crimes within and outside Nigeria; and
- xiii. Carrying out such other activities as are necessary or expedient for the full discharge of all or the functions conferred on it under the 2004 Act.

Other special powers of the EFCC are;

- i. Cause investigations to be conducted as to whether any person, corporate body or organization has committed an offence under the Act or other law relating to economic and financial crimes;
- ii. Cause investigations to be conducted into the properties of any person if it appears to the Commission that the person's life style and extent of the properties are not justified by his source of income.

Apart from the special powers and the above enumerated that is conferred on the EFCC by the Act, the responsibility of the coordinating these governmental agencies for the enforcement of the provisions also lays as responsibility for the EFCC:

- i. The money laundering Act 2004; 2003 No. 7. 1995 No. 13;
- ii. The advance fee fraud and other related offences Act 1995;
- iii. The failed banks (Recovery of Debt and Financial Malpractices in Banks) Act, as amended;
- iv. The Banks and other Financial Institute Act 1991, as amended;
- v. Miscellaneous Offences Act; and
- vi. Any other law or regulation relating to economic and financial crimes including the criminal code and penal code.

The EFCC possesses the power to prevent any form of economic and financial crime in Nigeria; investigate and prosecute those involved in these crimes (Nwoba & Nwokwu, 2018). These activities of the EFCC cannot be effectively achieved if

there is no constitutional backing that would make it function more effectively and attain a great height of success because of the enormous task of controlling corruption in Nigeria, and the supervisory role of other existing economic and financial crime investigating units in Nigeria. The EFCC is always challenged by other anti-graft agencies in Nigeria when it comes to the administration of criminal justice i.e. conflict between the EFCC, the Police, the Judiciary as well as the Independent Corrupt Practices and other Related Offences Commission (ICPC) with regards to arrest and prosecution of culprit(s) within the context of the rule of law (Nwoba & Nwokwu, 2018).

The performance of the commission, of no doubt, cannot be questioned given the threatening environment which they find themselves to operate. Since its inception, the EFCC has arraigned over 43 nationally prominent political figures on economic and financial corruption charges and recovered some US\$11 billion (Nochiri, 2016). Many of the corruption cases levied against the political elite have made little progress in the courts and only a few have been convicted to date (Oyesin & Onani, 2015). Those convicted have faced relatively little or no prison time. Other senior political elites widely implicated on corruption charges have not been prosecuted. Currently, not a single political figure is serving prison time for any of these alleged crimes. Many believed that the EFCC has fallen far short of its potential and left with a battered reputation and an uncertain record of accomplishment, since its inception (Eniola, 2018).

However, going by the records available since its inception, on the administration of the justice stemming from investigating and prosecuting economic and financial crime, the commission, under different leadership, claims to have secured a greater number of arrest, trial, and conviction than any other anti-graft agencies globally. The commission has recorded 603 convictions since President Muhammadu Buhari government took office in May 2015 (Eniola, 2018) and recovered over N500bn from prosecution corruption. The conviction figure was the aggregate of the 103, 195 and 189 convictions recorded in 2015, 2016 and 2017 respectively. A substantial portion of these recoveries is government funds that have been siphoned. Previously, arrest, detention, trials, and convictions of about 200 persons were recorded in 2007 alone which was higher by 25% in 2008 (EFCC, 2007). In 2013, the commission secured over 117 conventions (EFCC, 2013). Other convictions by the EFCC were 126 (in 2014), 103 (in 2015) and 182 (in 2016) (EFCC, 2014, 2105, 2016). Over 10,000 fraudulent email addresses have also been shut down by the EFCC and 80 suspects with regard to the fraudulent address faced

trails between 2008 and 2011 (Nanaghan, 2011 cited in Ethelbert, 2016). EFCC has made an enormous contribution towards controlling advance fee fraud (called 419), illegal oil bunkering, as well as investigation of corrupt practice in the upstream and downstream sector of Nigeria's petroleum industry as well as the capital market fraud and bank fraud (Ethelbert, 2016). The EFCC has recovered over N5billion from the investigation into oil subsidy fraud and prosecuted more than 40 suspects in connection with the fraud; secured at least one conviction on the pension fraud matter and recovered property worth over N1billion as at 2014. On a general note, the EFCC stopped corrupt politicians from contesting election in 2007 in Nigeria (League for Human Rights, 2007, cited in Ethelbert, 2016; Ewerenmadu, 2010, cited in Ethelbert, 2016; Ojo, 2012, cited in Ethelbert, 2016) and recorded over 1000 convictions in its first 10 years of operation as well as recovered about \$2trillion in 12 years (2004-2016) (Nochiri, 2016, cited in Ethelbert, 2016). The effort of the commission is claimed to have aggressively sensitized the general populace and the politically exposed persons on the ills of corruption. With this awareness creation, there is a growing and indisputable understanding of the negative impact of public funds misappropriation and the need to gradually reduce corrupt practices is gaining much ground in Nigeria (Eniola, 2018).

In 2005, the activities of the EFCC were critical in to secure 18 billion dollars debt forgiveness to Nigeria by the Paris Club, and the subsequent payment of 12 billion dollars to upset the remaining. The Commission was also instrumental to the de-listing of Nigeria from the Financial Times –Financial Action Task Force (FT-FATF) list of non –Cooperative countries and Territories (NCCTS), and the admission of Nigeria's Financial Unit (NFIU) into the Elite Egmont groups of Financial Intelligence Unit (FIUs) in 2007 (Zero Tolerance, 2009 cited in Ethelbert, 2016). The Commission's effort has assisted giving Nigeria's high rating by the transparency international no. 2 listing in 2007 to the modest rise of no. 143 out of 183 countries on a global scale of low integrity profile in 2011. In 2012, the country was ranked 139th out of 176 countries surveyed with 2.7 points; in 2013 it ranked 136th out of 144 with 2.5 out of 10 points; in 2014, the nation was ranked 136th out of 174 countries surveyed with 2.7 out of 10 points; while in 2015, it ranked 136th out of 168 countries surveyed with 2.6 points out of 10 (The TI rating considers scores below 5 out of 10 points as corruption area; from 5 to 10 out of 10 points as non-corrupt area (Ethelbert, 2016; Transparency International:

2012; 2013; 2014 and 2015). The commission has played a significant role, among West African Countries, like a giant financial Intelligent Unit, nurturing other West Africa Countries and playing a key role in the establishment of the West Africa Regional Financial Action Task Force (TATF) Agency (Agbaje, 2012).

Aside all these achievements enumerated and many more not enumerated on the activities of the EFCC, many still are of the belief that the commission has not performed well enough, in relation to the enormous power, duties, and responsibilities that are placed on the commission's shoulder (Eniola, 2018). Many are of the opinion that the commission would have performed better if they become independent of the Executive i.e. not directly controlled by the influence of the government. Applying the structural-functionalist theory, a sub-system that is not allowed to function will definitely not function to its full potential. This is the scenario the commission is facing. For the EFCC to be free from bias and the accusation of being biased there must be no sacred cow in its operations towards real or imagined corrupt individuals in Nigeria (Jibueze, 2015). Their operations should be void of favoritism and respect for power elites (Ethelbert, 2016) being selective in fighting corruption would in no way bring about its reduction let alone the effective administration of justice in any society and Nigeria will not be an exception.

EFCC Leadership and the Administration of Criminal Justice in Nigeria

In spite of myriad setbacks affecting the commission, the EFCC has shown a stronger and more independence in helping Nigeria to entangle the fight against corruption (Human Right Watch, 2018). The EFCC is currently standing as the only Nigerian government institution that has posed a meaningful challenge to the impunity enjoyed by corrupt and powerful members of the political elite. Analysis of the EFCC has focused on the commission's two very prominent leaders: Mallam Nuhu Ribadu and Mrs. Farida Waziri,

Mallam Nuhu Ribadu, the EFCC's first head, built the institution into what it is. In the administration of criminal justice, Ribadu regularly and publicly declared war, particularly on corrupt politicians. But his leadership legacy was tarnished by evidence that his anti-corruption agenda was selective in the administration of justice, dictated at least in part by the political whims of then-president, Olusegun Obasanjo (Keyamo, 2007). The leadership of EFCC was pressured with numerous problems which lead to forcing Ribadu from office just two weeks after he tried to

prosecute powerful former Delta State governor James Ibori, a close associate of Obasanjo's successor in office, Umaru Yar'Adua (Human Right Watch, 2018).

Mrs. Farida Waziri was brought in to replace Ribadu and took over in 2008. Critics allege that, under Waziri, the EFCC's leadership and the anti-corruption work have grown timid and lethargic in comparison with Ribadu's leadership and tenure. Many leading activists and political figures called for her removal for the accusation of being corrupt.

The character and capacity of the EFCC's leadership is an important issue for the administration of justice and any allegation levied against the leaders has to proven, investigated and punished for the sake of the image of the commission. Resulting from comparing the performance of these two leaders, one could conclude that neither Ribadu nor Waziri claim of fighting corruption produces a much real and better administration of criminal justice. Acts of spectacular incompetence afflicted the EFCC under both Ribadu and Waziri i.e. the EFCC under Ribadu failed to appeal a 2007 legally tenuous court ruling that purported to bar the EFCC from investigating alleged crimes by former Rivers State governor Peter Odili. That ruling effectively derailed what could have been the commission's most important case. Ribadu never publicly explained how or why this happened—and it was on his watch. For Waziri, she never looked into the reasons why the EFCC allowed that case to be derailed and made no tangible progress in overturning the ruling in the case (Human Right Watch, 2018).

Not all of the EFCC's failures are the faults of the commission's leadership. Enormous institutional hurdles hamper honest effort to prosecute corruption in Nigeria. Firstly, Nigeria's political system continues to reward rather than punish corruption i.e. Olabode George emerging from prison and become celebrated by the political elite is a proven incidence that the criminal justice system is failing and criminality is no bar to the highest echelons of politics in Nigeria (Keyamo, 2007). Secondly, the courts, serving as an obstacle to accountability in most of the EFCC's cases against nationally prominent political figures, have stalled cases for years without the trials even commencing. This could also be blamed on the failing criminal justice system. Finally, Nigeria's other anti-corruption bodies, the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Code of Conduct Bureau (CCB) have failed to complement the efforts of the EFCC leadership (Keyamo, 2007). It is quite interesting that on paper that both

institutions have powers that in some ways outstrip those of the EFCC. Unfortunately, they have been ineffectual relative to their size and statutory power and have displayed little appetite for tackling high-level corruption in Nigeria leaving the leadership of the EFCC with enormous corruption work to attend to (Human Right Watch, 2018).

The tables below show the corrupt charge cases of high profile political figures in Nigeria under the Ribadu and Waziri leadership.

Table 1. Ten Nationally Prominent Political Figures Charged under Ribadu (April 2003 – December 2007)

Defendant	Office Held	Date Charged
Tafa Balogun	Inspector General of Police (2002 – 2005)	April 2005
Diepreye Alamieyeseigha	Governor, Bayelsa State (1999 – 2005)	December 2005
Abubakar Audu	Governor, Kogi State (1999 – 2003)	December 2006
Joshua Dariye	Governor, Plateau State (1999 – 2007)	July 2007
Orji Kalu	Governor, Abia State (1999 – 2007)	July 2007
Saminu Turaki	Governor, Jigawa State (1999 – 2007)	July 2007
Jolly Nyame	Governor, Taraba State (1999 – 2007)	July 2007
Chimaroke Nnamani	Governor, Enugu State (1999 – 2007)	July 2007
James Ibori	Governor, Delta State (1999 – 2007)	December 2007
Ayo Fayose	Governor, Ekiti State (2003 – 2006)	December 2007

Source: Human Right Watch (HRW, 2018)

Table 2. Four Nationally Prominent Political Figures Charged under Interim Chairman Ibrahim Lamorde (January - June 2008)

Defendant	Office Held	Date Charged
Lucky Igbinedion	Governor, Edo State (1999 – 2007)	January 2008
Iyabo Obasanjo-Bello	Senator, Ogun State (2007 – 2011)[70]	April 2008
Adenike Grange	Minister of Health (2007 – 2008)	April 2008
Gabriel Aduku	Minister of State for Health (2007 – 2008)	April 2008

Source: Human Right Watch (HRW, 2018)

Table 3. Sixteen Nationally Prominent Political Figures Charged under Waziri (June 2008 – July 2011)

Defendant	Office Held	Date Charged
Babalola Borishade	Minister of Aviation (2005 – 2006)	July 2008
Femi Fani-Kayode	Minister of Aviation (2006 – 2007)	July 2008
Michael Botmang	Governor, Plateau State (2006 – 2007)	July 2008

Defendant	Office Held	Date Charged
Boni Haruna	Governor, Adamawa State (1999 – 2007)	August 2008
Rashidi Ladoja	Governor, Oyo State (2003 – 2007)	August 2008
Olabode George	Chairman, Nigerian Ports Authority (1999 – 2003) [79]	August 2008
Nicholas Ugbane	Chairman, Senate Committee on Power	May 2009
Ndudi Elumelu	Chairman, House of Representatives Committee on Power	May 2009
Igwe Paulinus	Chairman, House of Representatives Committee on Rural Development	May 2009
Jibo Mohammed	Deputy Chairman, House of Representatives Committee on Power	May 2009
Attahiru Bafarawa	Governor, Sokoto State (1999 – 2007)	December 2009
Abdullahi Adamu	Governor, Nasarawa State (1999 – 2007)	March 2010
Nasir El-Rufai	Minister of Federal Capital Territory (2003 – 2007)	May 2010
Hassan Lawal	Minister of Works and Housing (2008 – 2010)	May 2011
Dimeji Bankole	Speaker of the House of Representatives (2007 – 2011)	June 2011
Usman Nafada	Deputy Speak of the House of Representatives (2007 – 2011)	June 2011

Source: Human Right Watch (HRW, 2018)

EFCC and the Administration of Criminal Justice in Nigeria

Nigeria has witnessed a tremendous increase in the activities of Economic and Financial Crimes Commission (EFCC), against alleged corrupt individuals in the past two years. EFCC has been instrumental to the arrest and prosecution of several alleged corrupt persons (Balogun, 2016). Although the upbeat in the activities of the Commission has been applauded by some sections of the society. EFCC has carried on with the raid, arrests, and prosecution of several Nigerians and the implication of this development was an increase in the number of high profile criminal cases in various courts across the country.

While the EFCC certainly faces an array of external obstacles to its work, the agency has also managed to damage some of its own prosecutions through error and incompetence. The EFCC has always been criticized for its penchant for high-profile arrests and public “invitations” of prominent suspects to come in for questioning before criminal investigations were complete (Nwoba & Nwokwu, 2018). While these tactics earned headlines and may have struck fear into the hearts of some corrupt public officials, critics worried that they also undermined the underlying investigations. As one judicial official put it, “The day you make an announcement to the media [should be] the day you have filed a case—otherwise, you are just saying, ‘hide your tracks, we are coming’” (Ugwuja, 2016).

The corrupt charge cases of Former Governor Peter Odili (1999-2007) and former Governor of Adamawa State, James Bala Ngilari (that was charged in 2016) will give us insight to the EFCC inefficiency in the administration of criminal justice (Ubabukoh, 2015).

For instance, Nigerians are of the opinion that the EFCC's failure to prosecute former Rivers State governor Peter Odili (in office from 1999 to 2007) stems from severe incompetence for which officials have failed to offer any plausible explanation that he was part of the government controlling the leadership of the EFCC and as such the leadership cannot fight against their boss (Ugwuja, 2016). The EFCC never charged Odili despite the amassing a vast criminal case against him and helping to derail his vice-presidential ambitions through corruption evidence presented (Nwoba & Nwokwu, 2018).

Since the inception of Buhari's administration in 2015, the Commission could scarcely boast of any conviction in several high profile cases charged to court, except that of former Governor of Adamawa State, James Bala Ngilari, who was sentenced to five years imprisonment without the option of fine on March 6, by a High Court in Yola.

Ngilari was found guilty of corruption charges leveled against him by the Commission in September 2016 (Balogun, 2016). EFCC leadership under Ibrahim Magu, described the conviction of an ex-governor for corrupt misconduct committed, while in office as a step that showed a renewed determination of the Commission to fight corruption. But considering the number of arrests made by the Commission and the sensation that accompanied their arrests and consequent arraignment, many have wondered about the delay in prosecution and low conviction of the high-profile corruption cases (Ubabukoh, 2015).

This, no doubt, has become worrisome, given what some Nigerians described as poor investigation but just media trial. Aside other factors that may pose some challenges to the Commission, such as sluggish judicial system and lacuna created in the Constitution as well as the Administration of Criminal Justice Act (2014), which create opportunities for endless adjournment and other privileges to the accused, many still held that proper investigation prior to arrest will guarantee, not only more convictions but also, quicker dispensation of justice (Nwoba & Nwokwu, 2018).

Furthermore, the delay in the prosecution and low rate of convictions in the high profile corrupt cases by the EFCC, not only on lack of proper investigations but also on ill motives of the commission's leadership (Agbaje, 2012). The EFCC is seen to place the questions before answers and presumed the accused guilty before trial, through the instrumentality of the media and their trials are politically motivated and are done in the media without proper investigation (Ubabukoh, 2015). The commission conviction is on the pages of newspapers, in the television and on the social media, and by the time they finally go to court, no evidence is there to convict the people (Ethelbert, 2016).

There has been the absence of a requisite favourable legislative framework for the operation of the EFCC necessary to achieve success in the anti-corruption war in the country. The EFCC still lack the law enabling the provision of a special court to try cases of corruption and financial crime (Agbaje, 2012). Prosecution of cases brought before the regular court is slow. There is a general belief that establishing special court will speedy the administration of the criminal justice process which will, in turn, reduce the multiplier effects unprosecuted cases have on the nation's development.

It has also been recorded that the EFCC administration of criminal justice system has failed to convict corrupt officers whose assets were seized because of the absence of non-conviction based assets forfeiture law, which in other countries is used to measure the seriousness of a country's fight against corruption (Nwoba & Nwokwu, 2018). Therefore, the commission would have achieved more success than it currently has, if the law is presently in operation. Modernity and the societal growth accompanied by the development of information and communication technology (ICT) has placed Nigeria laws as obliterated laws and which has stood against fighting the growing monster of corruption (Ethelbert, 2016). For instance, the 1945 enacted Evidence Act of Nigeria is out of tune from modern-day commercial realities. Nigeria laws and the court system still find it difficult to admit electronically generated evidence which makes the job of convicting financial crime difficult because most of their dealings are electronically done (Agbaje, 2012).

In the administration of criminal justice by the EFCC, other difficulties entangling the commission are culture impunity and the lack of political will to fight against this national malaise due to political leaders interference, and non-supportive

nature of outside countries to comply with releasing criminating evidence against convicted persons which make the administration of criminal justice difficult for the EFCC in Nigeria (Ethelbert, 2016).

Conclusion and Recommendations

As corruption has proven difficult to fight and address in Nigeria through the EFCC, the work of fighting against this menace should not be giving to the government alone to handle because their ultimate goal is to protect the interest of those who have to serve and still serving the nation. Judging from the above discussion, we can conclude that the EFCC cannot solely fight corruption or ensuring a smooth administration of criminal justice because of the high political interference of the elite and the poor enabling environment of the commission to function. The commission does not have a strong willpower for addressing corruption and they see the media publicity of those convicted with appropriate charges as an avenue to tell the public that they are functioning. Court trials and charges by the commission are subject to who the current administration wants to be tried and charged. The overbearing influence of government presence in the activities of the EFCC has waterloo the performance of the commission and affected the administration of criminal justice. This study recommends the following:

- i. For the EFCC to achieved and surpass her current achievements, some level of independence is required for the commission. Laws guiding the judicial process of the EFCC and preventing the interference of political elite in the activities of the commission should be enacted;
- ii. The non-conviction based assets forfeiture law should also be enacted because the nation needs to recoup her stolen fund to help revive her growth and development;
- iii. Nigerian Judicial Process should also allow the administration of justice of the EFCC been fast and effective through attending to cases brought before the court on a timely basis with unnecessary delay and adjournments.
- iv. The anti-graft agency of Nigeria i.e. the EFCC, ICPC, and CCB have grown to the stage of having a separate or special court system in order to achieve the desired goal of fighting corruption and financial crime. The Judicial system and the government should encourage the establishment of the special court;

v. Evidence provided for the prosecution of criminal cases by the EFCC should not be restricted to the Evidence Act of Nigeria of 1945 that does not admit electronically generated evidence. Dealings and activities of corruption are now electronically perpetuated more ever than before and the admissibility will provide volumes of evidence against the convicted in court;

vi. In the administration of the criminal justice system, the EFCC should strictly align themselves with the provision of the law and make sure that the number of persons convicted should follow the number of cases charged to court. Convicted persons should be immediately charged to court irrespective of his/her status.

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