AN EVALUATION OF THE CONFLICTS IN THE LAWS ESTABLISHING THE ECONOMIC AND FINANCIAL CRIMES COMMISSION AND THE INDEPENDENT CORRUPT PRACTICES AND OTHER RELATED OFFENCES COMMISSION*

Abstract

This study critically examines the legal regimes governing Nigeria's major anti-corruption agencies, with particular focus on the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC). The research investigates the problem of overlapping mandate, duplication of functions, and jurisdictional conflicts arising from the proliferation of public agencies in Nigeria. Using doctrinal research method, the study analyses the enabling statutes of both agencies, relevant constitutional provisions, and scholarly literature. Findings reveal significant overlaps in the powers of investigation, prosecution, asset recovery, public enlightenment, advisory functions, and anti-corruption enforcement vested in both agencies. The study observes that the broad mandate of the EFCC has substantially subsumed many of the functions assigned to the ICPC, resulting in duplication of effort, wastage of public resources, and operational inefficiencies. It further finds that corruption remains a major impediment to Nigeria's socio-economic and political development despite the existence of multiple anti-corruption institutions. The paper concludes that the current legal framework creates unnecessary conflicts and recommends that merger of the ICPC with the EFCC, in line with the recommendations of the Steven Oronsaye Committee. Alternatively, it advocates for clear statutory delineation of functions between the two agencies to eliminate overlap and enhance effectiveness in the fight against corruption. The study also recommends the strengthening of existing institutions rather than the creation of additional agencies with similar mandates.

Keywords: Corruption, Anti-Corruption Agencies, ICPC, EFCC, Public Agencies, Overlapping Functions, Legal Regimes.

1. Introduction

Corruption dates back to antiquity.[1] It is a global phenomenon, and has been with all kinds of societies; be it advance, primitive, modern or traditional, indeed, it is a global scourge.[2] It is a universal phenomenon which presents itself in different colourations and dimensions and, wide spread in terms of coverage.[3] Corruption has been identified as the major obstacle to economic, political, and social development of the African Continent.[4] The fact that corruption is a surest route that hinders development in any society does not need contention.[5] In Nigeria today, there are many unresolved problems, but the issue of the upsurge of corruption is alarming.[6] Corruption is endemic in Nigeria. The damages it has done to the polity are astronomical.[7] According to Usman, there are three forms of corruption, namely bureaucratic, electoral, and political.[8]

In a bid to curtail and contain corruption in the public service, section 172 of the Constitution of the Federal Republic of Nigeria 1999 (the 1999 Nigerian Constitution)[9] states that; a person in the public service of the Federation shall observe and conform to the Code of Conduct Bureau and Tribunal (CCBT) Act 2004. Malemi opines that; all persons working in the public service or civil service, whether at the Federal, State or Local Government Council are required to observe the provisions of the CCBT Act.[10] The CCBT Act is a part of the Nigerian Constitution where it is enshrined as a Schedule.[11] He further said that, the CCBT Act 2004 is a statute that prohibits and deals with complaints of corruption, embezzlement and abuse of office; and so on.[12]

Of course, the CCBT was established to curtail official corruption. Section 3 of the CCBT Act empowers the Tribunal to:

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[1] I. Agmon, and others, *Anticorruption in History: From Antiquity to the Modern Era* (Oxford University Press, 2018) 21-36.
[2] S. O. Moyosore, *'Corruption in Nigeria: Causes, Effects and Probable Solutions'* (2015) 1 (8), Journal of Political Science and Leadership Research 23.
[3] *Ibid.*
[4] E. Adegbite, 'Corporate Governance Regulation in Nigeria' (2012) 12 (2) Bibliography of Corruption in Nigeria. 257-276.
[5] (n 1) 22.
[6] Y. Aluko, 'Corruption in Nigeria: Concept and Dimensions' (2009) <https://www.researchgate.net> accessed 5 February 2025.
[7] *Ibid*.
[8] Y. Usman, *'Causes and Effects of Corruption in Nigeria'* (2014) 2(4) *International Journal of Economics, Commerce and Management* 7.
[9] Cap C 23 LFN 2004.
[10] E. Malemi, *The Nigerian Constitutional Law* (Princeton Publishing Co., 2006) 434.
[11] *Ibid*.
[12] *Ibid*.

(a) receive assets declarations by public officers in accordance with the provisions of this Act;
(b) examine the assets declarations and ensure that they comply with the requirements of this Act and of any law for the time being in force;
(c) take and retain custody of such assets declarations; Etc.

The Tribunal is also empowered to impose punishment on offenders.[13]

> Corruption remains a major hindrance to Nigeria's development, despite efforts made by successive regimes to combat it. In the absence of institutionalized Anti-Corruption Agencies (ACAs) during military rule, military decrees were used in the fight against corruption. The return to civil rule in Nigeria in 1999 represented a new chapter, with Acts passed through the National Assembly to establish ACAs as part of a broader international development agenda. The global campaign against corruption gave further impetus to the institutionasation of ACAs in Nigeria, through anti-corruption conventions and protocols such as the United Nations Convention Against Corruption (UNCAC) in 2005 (UN, 2005), and the African Union Convention on Preventing and Combating Corruption (AUCPCC) in 2006 (AU 2006).[14]

It should be noted that with the return to democratic rule in 1999, the administration of President Olusegun Obasanjo ratified and domesticated various international anti-corruption protocols. Some of which are the United Nations Convention against Corruption (UNCAC) 2003, the African Union Convention on Preventing and Combating Corruption (AUCPCC) 2003 and the Economic Community of West African States (ECOWAS) Protocol against Corruption, 2001.[15] Thus, in line with global best practices and a determination to confront and curtail corruption, President Obasanjo established the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in 2000. The Commission established under the Independent Corrupt Practices and Other Related Offences (ICPC) Act 2000, was saddled with the responsibility to; receive complaints of corruption from the public, investigate complaints, prosecute offenders, review the systems of operation of government agencies with a view to eliminate or eradicate corruption. Others, include to educate the public on and against bribery, Corruption and related offences.[16]

Within the space of three years, President Obasanjo established a similar anti-corruption agency, Economic and Financial Crimes Commission (EFCC).[17] The EFCC, established under the EFCC Act of 2003, is mandated to; investigate all financial crimes, including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud and contract scam.[18]

From the above, it is a notable fact that the EFCC has a broader mandate than the ICPC. It is the opinion of the researcher that the functions of the ICPC have been submerged in the EFCC. Consequently, the ICPC should be scraped or merged with the EFCC. This was also recommended by the Oronsaye committee.[19] The proliferation of public agencies is a menace that has been of immense concern to stakeholders because of its detrimental effects on the affected agencies, the nation's scarce resources and the entire population.[20] One of the major reasons for poor infrastructural development in Nigeria is the huge cost of recurrent expenditure. No doubt, cutting the cost of governance will improve the wellbeing of the Nigerian people.[21]

The purpose of this study is to evaluate the two major anti-corruption agencies in Nigeria, that is, the Independent Corrupt Practices and Other Related Offences Commission and the Economic and Financial Crimes Commission and their enabling laws, with a view to highlighting and analysing areas of conflict and overlap. It will identify and dissect pertinent issues caused by these overlap and duplication of functions on these agencies and the nation. It looks at the origin of anti-corruption agencies (ACA) in Nigeria and the progress made thus far. Finally, it offers suggestions and recommendations, which if implemented by the appropriate authorities could eradicate the problems faced by these agencies in their fight against corruption.

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[13] See S. 23 (2) of the Code of Conduct Tribunal (CCBT) Act, Cap C 23 Laws of the Federation of Nigeria (LFN) 2004.
[14] I. Hassan, *'The EFCC and ICPC in Nigeria: Overlapping Mandates and Duplication of Effort in the Fight Against Corruption'* (2021) (Paper 038) The School of Oriental and African Studies, London 10-14. (The School of Oriental and African Studies is a Public Research University in London, England).
[15] *Ibid*.
[16] See s. 6 (a-f) of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act Cap C 23 LFN 2014.
[17] (n 14) 5.
[18] See s. 6 (a-q) of the Economic and Financial Crimes Commission (EFCC) Act, Cap C 23 LFN 2014.
[19] (n 6)
[20] The Editorial Board, 'Needless Duplication of Government Agencies' in *Business Day* (22 September 2020) <www.businessday.ng> accessed 4 March 2025.
[21] A. O. Igwe, and O. I. Inyiama, 'Effect of Government Recurrent Expenditure on Economic Prosperity in Nigeria' (2024) 12 (1) *European Journal of Accounting, Auditing and Finance Research* 74-90.

2. Clarification of Terms

Corruption

The word corruption is derived from the Latin words; 'to spoil, pollute, abuse, or destroy', depending on the context.[22] However, the concept of corruption has changed over the centuries and varies somewhat across cultures. The term nowadays refers primarily to improper behavior linked to one's official position.[23] Nwogbo and Ighodalo opine that, corruption is a conceptually diffuse concept.[24] According to them, despite the fact that it is a universal phenomenon, there are no universally- accepted definitions of corruption.[25] The utility of corruption both as a concept and as a phenomenon is in contest, that is, it is a contested concept that takes varied forms.[26] What is universal is that at least two elements will be involved and the intent is to satisfy pecuniary or selfish interests either directly or indirectly.[27] Corruption is a global phenomenon, and has been with all kinds of societies, be it advance, primitive, modern or traditional, as a global scourge. It is a universal phenomenon which presents itself in different colourations and dimensions and, wide spread in terms of coverage.[28] The *Black's Law Dictionary* defines corruption as, illegality; a vicious and fraudulent intention to evade the prohibition of the law.[29] The act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others.[30] Ikpotor describes and defines corruption as a hard word not always accurately understood but defined as 'covering a multitude of official delinquencies, great and little; but it is strictly accurate to apply it to any colour of influence, of mere relation of any kind, on the administration of justice'[31]

Official Corruption

In the case of *Onyeani* v *FGN* the Court of Appeal says;

> Section 98B of the Criminal Procedure Act stipulates, as follows: person inviting bribes, etc., on account of actions of public official (1) Any person who (a) corruptly asks for, receives or obtains any property or benefits of any kind for himself or any other person; or (b) corruptly agrees or attempts to receive or obtain any property or benefits of any kind for himself or any other person, on account of? (i) anything already done or omitted, or any favour or disfavor already shown to any person, by a public official (as defined in Section 98B of this Code) in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a government department, public body or other organisation or institution in which the public official is serving as such; or (ii) anything to be afterwards done or omitted, or any favour or disfavor to be afterwards shown to any person, by a public official in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of the felony of official corruption and is liable to imprisonment for seven years ...'[32]

In essence, a person is guilty of official corruption if he does or omits to do anything, within his official capacity, for his personal gain or for the benefit of another. In other words, official corruption is an act of dishonesty carried out by a public servant, in the process of executing his official duties.

Public Officer and Public Service

The Corrupt Practices and Other Related Offences Act interprets a 'public Officer' as a person employed or engaged in any capacity in the public service of the Federation, State or Local Government, public corporation or private company wholly or jointly floated by any government or its agency including the subsidiary of any such company whether located within or outside Nigeria and includes judicial officers serving in Magistrate or Customary Courts or Tribunals.[33] The Nigeria 1999 Constitution[34] interprets public service of the Federation and a State to mean; the service of the Federation

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[22] L. Holmes, *Corruption: A Very Short Introduction* (Oxford University Press, 2015) 27-34.
[23] *Ibid*.
[24] D. C. Nwagbo and A. Ighodalo, 'Governance and Corruption in Nigeria' (2021) 6 (2) *Journal of Good Governance and Sustainable Development in Africa*, 86.
[25] *Ibid*.
[26] S. O. Moyosore, 'Corruption in Nigeria: Causes, Effects and Probable Solutions' (2015) 1 (8), *Journal of Political Science and Leadership Research,* 23-24.
[27] *Ibid*.
[28] *Ibid.*
[29] See BA Garner (ed), *Black's Law Dictionary* (2nd ed, West Publishing Co., St Paul, MN: 1910) 278.
[30] Sustainability Directory. Sustainability Directory is a directory for knowledge sharing, founded by Lorne Michael Cousins. https://sustainability-directory.com, accessed 12 February, 2025.
[31] T. R. Ikpotor, 'Fighting Corruption Through the Courts: A Look at the Supreme Court of Nigeria's Decision in *Attorney General, Ondo State, v Attorney-General, Federation, and Others* '(2005) (1) 1 *Delsu Law Journal* 220-230.
[32] *Onyeani* v. *FRN*, (2021) LPELR – 55475 (CA) Nigeria.
[33] See s. 2 Cap C 23 LFN 2004.
[34] *Ibid*., S. 318

or the State in any capacity in respect of the government of the Federation or the State. In the case of *Garba v. FRN*[35] the court defines a public officer and public service thus: '… a public officer is a person employed or engaged in any capacity in the public service of the Federation, State or Local Government, while 'public service' is taken to mean the service of a state in any capacity in respect of the government of a state'[36]

Economic and Financial Crimes
Section 46 of the EFCC Act interprets economic and financial crimes to mean the non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug trafficking embezzlement, bribery, looting and form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc. The above definition suggest that economic and financial crimes are all crimes that are related to finance.

Anti-Corruption Agencies (ACAs)
The term 'Anti-Corruption Agencies' is a relatively recent coinage, reflecting the modern understanding of the need for specialised institutions to combat corruption.[37] The word 'agency' itself means 'to do' or 'to act,' highlighting the active and proactive role these bodies are expected to play.[38] The combination of 'anti-corruption' and 'agency' signifies a specific entity designed to actively oppose and counteract corrupt practices.[39] The World Bank describes an ACA as a body that reviews and verifies official asset declaration; carries out investigations of possible corruption; and pursues civil, administrative, and criminal sanctions in the appropriate forums.[40]

Independent Corrupt Practices and Other Related Offences Commission (ICPC)
The Corrupt Practices and Other Related Offences Commission is an anti-corruption agency in Nigeria. In the 1990s under late military dictator Sani Abacha, corruption became endemic in Nigeria.[41] The image of the nation was in shambles, so upon the return to democratic rule in 1999, President Olusegun Obasanjo, in his first term in office established the Corrupt Practices and Other Related Commission to combat and curtail corruption.[42] This is in line with global best practices.[43]

Economic and Financial Crimes Commission (EFCC)
The Economic and Financial Crimes Commission is an anti-corruption agency also established by the administration of President Obasanjo. It was established under the EFCC Act, 2004.[44] Section 6 of the Act mandates the Commission to investigate all financial crimes and prosecute offenders, among others.[45] Section 7 (2) of the Act empowers the EFCC to enforce the provisions of:

(a) The Money Laundering Act.
(b) The Advance Fee Fraud and Other Related Offences Act.
(c) The Failed Banks (Recovery of Debt and Financial Malpractices in Banks) Act, as amended.
(d) The Banks and Other Financial Institutions Act
(e) The Miscellaneous Offences Act and
(f) Any other law or regulation relating to economic and financial crimes, including the Criminal and Penal Code.

It is important to note that the EFCC has a broader template than the ICPC.

3. The Origin of Anti-Corruption Agencies in Nigeria (ACAs)

[35](2022) LPELR- 57249 (CA) Nigeria.

[37] (n 28).
[38]*Ibid.*
[39]*Ibid.*
[40] (n 12) 4.
[41] S. Pierce, *Moral Economics of Corruption* (Duke University Press, 2016) 207.
[42]*Ibid*.
[43] Article 6 of the United Nations Convention Against Corruption (UNCAC).
[44]The EFCC Act, C Cap 23 LFN 2014.
[45] *Ibid*., S. 6 (a-q).

The United Nations promulgated a law called; 'The United Nations Convention Against Corruption (UNCAC) 2003,' Article 1 of the Convention states that the purposes of this Convention are:

a) to promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
b) to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
c) to promote integrity, accountability and proper management of public affairs and public property.

Article 6 of the UNCAC requires all States Parties to establish (or ensure the existence of) anti-corruption body/bodies to combat and contain corruption.[46] This and many other international and regional organisations to which Nigeria is a member-State, and the glaring proofs of the detrimental effects of corruption in Nigeria, made the government of Olusegun Obasanjo to institutionised the fight against corruption.[47] This led to the formation of the ICPC in the year 2000, the EFCC in the year 2002, and other anti-corruption agencies by the Nigerian government.

4. The Effects of Corruption

Corruption can be a major obstacle in the process of economic development and in modernising a country.[48] In many African states, particularly in Nigeria, corruption is a clog in the wheel of progress, as well as a malaise that inflicts every aspect of the society.[49] The greatest recognition that corruption can have a serious adverse impact on development has been a cause for concern among developing countries. In a recent survey of 150 high level officials from 60 third world countries, the respondents ranked public sector corruption (official corruption) as the most severe obstacle confronting their development process.[50] Particularly in Nigeria, corruption takes various forms with political corruption being the most prevalent and having negative implications for the country's development.[51] Moyosore[52] highlights the following as the effects of corruption:

> i) Corruption perpetuates social, economic and political inequality and thus, aggravates mass poverty as poor people on the average pay higher proportion of their incomes in bribes, this, in economic parlance, retards economic growth...
> ii) Corruption also diverts public expenditure from sectors that benefits the poor the most, away to the sectors and projects where kick-backs can readily be obtained by public officials. In effect, distorted priorities of public policies and diversion of public resources which could have been productively employed to increase productivity, bring about effectiveness and efficiency of government performance becomes the order of the day...
> iii) Corruption can also cause reduction in quality of goods and services available to the public, as some companies could cut corners (thereby producing sub-standard goods to increase profit margins. Put differently, it generates allocative inefficiency by permitting the least efficient contractor or most costly supplier with the highest ability to bribe those who award government contracts or awarding contracts to cronies or companies where they have interest. Cumulatively, these acts undermine the reputation and make government agencies ineffective and inefficient and impact negatively on the wellbeing of the people.
> iv) Corruption also impacts negatively on efficient mobilization and management of human and material resources. It can also alienate modernity-oriented civil servants and cause them to reduce (or withdraw) their service and to leave the country for greener pasture (the 'brain-drain' episode is tied to corruption) as many Nigerians believe it is profitable to work outside Nigeria's shore'.
> v) Corruption is a cause of low investment with a resultant effect of reduced economic growth both at foreign and at the domestic level. An economy undermine by corruption has the effect of discouraging foreign investment and public donors. The resultant effect of this is shortage of fund for productive investment. Simply put, corruption hinders direct foreign investment.
> vi) Corruption has a negative impact on human rights of the citizenry. A country with a corrupt government will have no regard for people's fundamental rights as guaranteed in the constitution. Hence, it desecrates the rule of law and distorts the entire decision-making process, undermines the credibility and legitimacy of government …
> v) It has also caused political decay and economic downturn in Nigeria and, depending on the scale; it has led to social conflict and violence as competing groups vie for state power which is the source of distribution of resources and other amenities in the country. this made politics all-comers job and is seen as surest means to affluence, earn respect and recognition.

[46] Art. 6 (1) of the United Nations Convention Against Corruption, 2005.
[47] See also the Economic Community of West African States Protocol Against Corruption (ECOWAS, 2001).
[48] *U.* Myint, 'Corruption: Causes, Consequences and Cures' (2000) 7 (2) *Asia-Pacific Development Journal* 3.
[49] O. B. Ijewereme, *'Anatomy of Corruption in the Nigeria Public Sector: Theoretical Perspectives and Some Empirical Explanations'* (2015) Sage Journals <https://journal.sagepub.com> accessed 14 March 2025.
[50] (n 40).
[51] (n 12) 8.
[52] (n 24) 30-31.

5. Corruption as a Universal Challenge

Corruption is a universal problem, it thrives both in developed and undeveloped climes.[53] In New York City, the cost of past corruption in school construction alone is measured in the hundreds of millions of dollars.[54] Rose-Ackerman says grand corruption occurs at the highest levels of government and involves major government projects and programmes.[55] Government officials frequently transfer large financial benefits to private firms through procurements contracts and the award of concessions.[56] She further says that:

> Corruption in contracting occurs in every country, even those at the high end of the honesty index such as the Scandinavian countries, Singapore, and New Zealand. A few examples will suggest the range of possibilities.
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> In Paraguay corruption in the award of international construction comtracts during the regime of President Alfredo Stroessner (1954-1989) typically ranged from 10 to 20 percent. Corruption helped inflate the cost of the Itaipu dam on the Brazilian border and led to the construction of projects that exceeded domestic needs. In Indonesia in the 1970s two German companies reportedly paid bribes of 20 percent of the value of construction contracts for a steel mill to an official of the state-owned oil company.
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> In Zimbabwe collusion between senior ministers in Posts and Telecommunications and a Swedish telecommunications company may have circumvented local tender board procedures. Kickbacks were reported to be as high as $7.1 million. In an airplane deal in South Korea several United States companies allegedly paid bribes to President Roh Tae Woo. Multinational suppliers were questioned, but denied involvement. In another deal Roh Tae Woo's national security advisor acknowledged receiving payments that may have been as high as $300,000. A major scandal in Singapore involved several multinational firms and a senior official of the Public Utility Board. The official was paid to reveal confidential information about tenders. The case led to the blacklisting of five major multinationals implicated in the scandal. The official received a fourteen-year jail term.
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> Grand corruption is not limited to developing nations…[57]

6. Brief History of the Origin of the Independent Corrupt Practices and Other Related Offences Commission

The swearing-in of Olusegun Obasanjo on 29 May 1999, as the President of the Federal Republic of Nigeria and Commander-in-Chief of the armed Force was a political watershed for Nigeria after several years of military rule. It marked a new dawn for Nigeria in more ways than one, not least in the fight against corruption. At the time the civilian administration came into power, corruption in Nigeria had indeed become a full-blown cancer. In 1999, Transparency international corruption Perception Index rated Nigeria the second most corrupt nation in the world.[58]

Although corruption is a global malaise, the extent of its reach in the country was tragically stupendous. All indicators showed that the spread of this cancer had become frightening. It pervaded private and public institutions and overwhelmed all levels of government.[59] The price of corruption has been extremely high. The economic, political, social and moral bases of the country have been severely eroded and degraded. It has brought Nigeria near the brink and almost rendered it helpless and hopeless.[60] Even religious institutions, the gate keepers of the nation's moral conscience, were not immune to the ravages of the cancer.[61] It became imperative that something drastic had to be done to arrest the rot. This impelled the commitment of the President to tackle corruption.[62]

The ICPC (Act 2000) brought a fresh and decisive perspective to the fight against corruption in the form of a holistic approach encompassing enforcement, prevention and educational measures. It captures in a single document, a host of corrupt offences in their old and sophisticated guises. The Act above has wide-ranging powers. The Act brings under its purview all Nigerians in the private and public sectors and even those public officers with constitutional immunity.[63] The

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[53] R. Klitgaard, R. Maclean-Abaroa, and H. Lindsey Parris, *Corruption Cities: A Practical Guide to Cure and Prevention* (ICS Press, 2000) 17.
[54] *Ibid*.
[55] S. Rose-Ackerman, *Corruption and Government: Causes, Consequences and Reforms* (Cambridge University Press, 1999) 43.
[56] *Ibid*.
[57] *Ibid.,* 43-45.
[58] This was extracted from the Portal of the Commission <https://icpc.gov.ng> accessed 31 January, 2025.
[59] *Ibid*.
[60] *Ibid.*
[61] *Ibid.*
[62] *Ibid.*
[63] *Ibid.*

ICPC was inaugurated on 29 September, 2000 by the Nigerian President, Olusegun Obansanjo.[64] The Commission is at the hub of Nigeria's fight against corruption. In the order set out at section 6 of the Act 2000,[65] the first duty of the Commission is to receive complaints, investigate and prosecute offenders. Other duties include reviewing and modifying the systems and procedures of public bodies as well as education of the public and fostering their support in combating corruption.

7. Brief History of the Origin of the Economic and Financial Crimes Commission

The Economic and Financial Crimes Commission (EFCC), was established by an Act of the National Assembly on 12 December, 2002 by the administration of President Olusegun Obasanjo. Following the appointment and confirmation by the National Assembly, of the pioneer Executive Chairman, Nuhu Ribadu and other administrative officers, the operational activities of the Commission commenced on April 13, 2003.[66] The establishment of the Commission was partly in response to pressure from the Financial Action Task Force (FATF) on Money Laundering also known by its French name Group edáction financiere (GAFI).[67] GAFI is an inter-governmental organisation founded in 1989 on the initiative of the G7 (Group of Seven), on inter-governmental political forum consisting of Canada, France, Germany, Italy, Japan, the United Kingdom and the United States of America to develop policies to combat money laundering.[68]

FATF had ranked Nigeria as one of the 23 countries that were non-cooperative in the combined efforts to fight money laundering globally. Due to some identified inadequacies in the 2002 EFCC Establishment Act, the National Assembly repealed it and re-enacted the 2004 EFCC Establishment Act which was signed into law on the June 4 2004 by President Obasanjo.[69] Nuhu Ribadu, the pioneer chairman of the EFCC, was handed the monumental task to midwife the agency. Within a few months of his emergence on the scene, the Commission has forced itself into public consciousness having taken out of circulation all the 419 kingpins.[70] These were people hitherto considered untouchable. The Fred Ajuduas, the Emmanuel Nwudes, the Maurice Ibekwes, the Ade Bendels, the Amaka Anajembas and the Nzeribe Okolis, among many others were all arrested and prosecuted. During his term, outside of the headquarters located in Abuja, the Lagos, Port Harcourt, Enugu, Kano and Gombe Commands were established each representing the geo-political zones of the country, for ease of operation.[71] In December 2007, Ibrahim Lomorde took over the affairs of the Commissiom in acting capacity and in January 2008 Farida Waziri, was appointed by President Umaru Musa Yaradua as the chairperson of the Commission. Lamorde handed over to Waziri on June 6, 2008, following her clearance and confirmation by the Senate in June 2008.[72] Following his appointment by President Goodluck Jonathan, Lomorde took over from. Waziri on November 23, 2011 in acting capacity. He was confirmed as substantive Chairman of the EFCC on February 15. 2012. On November 9, 2015, President Muhammadu Buhari replaced Lamorde with Ibrahim Magu as the acting EFCC Chairman.[73]

In about five years at the helms of affairs, Magu established seven commands and reopened the Maiduguri office earlier opened by Farida Waziri but closed due to the activities of Boko Haram in the North-East.[74] The seven Commands were; Ibadan, Kaduna, Benin, Makurdi, Sokoto, Ilorin and Uyo. Mohammed Umar Abba, Deputy Commissioner of Police (DCP). On July 9, 2020 he took over the affairs of the Commission on interim basis.[75] Seven months later, on February 24, 2021, the Senate of the Federal Republic of Nigeria confirmed Abdulrasheed Bawo. CFE, CAMS, whose name was submitted by President Muhammadu Buhari as the Executive Chairman of the Commission. Bawo took over from Umar Abba on 5 March, 2021.[76] Following Wednesday June 14, 2023, suspension of Mr. Abdulrasheed Bawo as Executive Chairman by the Federal Government, Mr Abdulresheed Chukkol stepped in as Acting Chairman of the Commission. Until this new role, Chukkol was the Director of Operations of the Commission.[77]

8. A Critical Appraisal of the Areas of Conflict in the Laws establishing the ICPC and the EFCC

It is necessary to begin this section by admitting that it is not out of place to create multiple anti-corruption agencies. The bone of contention is, each should have specific and distinct job description, not overlapping in functions. Second,

[64] *Ibid.*
[65] *Ibid.*
[66] This information was extractd from the EFCC Portal, <https://www.efcc gov.ng> accessed 3 February, 2025.
[67] *Ibid*.
[68] *Ibid*.
[69] *Ibid.*
[70] 419 in Nigeria parlance means offenders whose crimes are contrary to Section 419 of the 1999 Constitution of the Federal Republic of Nigeria, as amended.
[71] (n 66)
[72] *Ibid.*
[73] *Ibid.*
[74] *Ibid.*
[75] *Ibid.*
[76] *Ibid.*
[77] (n 39)

although it is a notable fact that the EFCC has a wider or broader template, areas of conflicts in both agencies is obvious. Some are highlighted below:

(a) Power to receive complaints, investigate and prosecute any person who has conspire to commit or has attempted to commit or has committed an offence under their enabling Acts or any law prohibiting corruption or financial crimes:
Section 6 of the ICPC Act[78] provides that:
a) Where reasonable grounds exist for suspecting that any person has conspire to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting Corruption, to receive and investigate any report of the conspiracy to commit, attempt to commit or the Commission of such offence and, inappropriate cases, to prosecute the offenders.

Similarly, section 7 of the EFCC Act states that the Commission shall:

a) Cause investigation to be conducted as to whether any person … has committed an offence under this Act or other law relating to economic and financial crimes.

Another area of conflict is that both agencies are mandated to investigate 'all financial crimes,' that is, both can investigate offences of financial crimes and prosecute offenders under any other related law outside their respective Acts. Section 6 of the ICPC Act provides that: Where reasonable grounds exist for suspecting that any person has conspire to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting Corruption …

Section 2 of the ICPC Act interprets corruption to, include bribery, and other related offences. Relatedly, section 6 of the EFCC Act provides that the Commission shall be responsible for 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 card fraud, contract scam, etc;

The basis of the power vested on both Commissions implies that they can prosecute offenders under any other law prohibiting corruption and financial crimes. Hassan opines that this overlap and contradiction has led to a situation where the two bodies sometimes investigate the same case(s) simultaneously.[79] He further says that this had made the ICPC utilise section 17 of the Advance Fee Fraud Act to recover assets under the 'Non-Conviction' process, a law that is enforced by the EFCC.[80] According to him, the EFCC has equally charged defenders under the ICPC Act.[81]

Advisory responsibility: Furthermore, both agencies have the responsibility to advice government on ways to contain corruption. Section 6 (c-d) of the ICPC Act states that it shall be the duty of the Commission:

(c) to instruct, advise and assist any officer, agency or parastatals, on ways by which fraud or corruption may be eliminated or minimized by such officers, agency or parastatal;
(d) to advise heads of the public bodies of any changes in practice, systems or procedures compatible with the effective discharge of the duties of the public bodies as the commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences.

In the same vein, the EFCC[82] is vested with the responsibility to:

(j) (vi) undertake 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.

Both the ICPC and the EFCC are vested with the responsibility to educate and enlighten the public against corruption and financial crimes and solicit their support in the fight against same. Section 6 (e-f) of the ICPC Act states that it shall be the duty of the Commission: (e) to educate the public on and against bribery, corruption and related offences, (f) to enlist and foster public support in combating Corruption. A similar provision in section 6 of the EFCC Act states that the Commission shall be responsible to: 6 (p) carry-out and sustain rigorous public enlightenment campaign against economic and financial crimes within and outside Nigeria. Section 6(a) of the ICPC Act and section 7(1)(b) of the EFCC Act empower both agencies to investigate a person based on mere suspicion or assumption. 6(a) Where reasonable grounds exist for suspecting that any person has conspire to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting Corruption …

[78] *Ibid.*
[79] *Ibid*.
[80] *Ibid*.
[81] *Ibid*.
[82] See s. 6(j)(vi).

The EFCC Act states that the Commission has power to:

> 7(1)(b) Cause investigation to be conducted into the properties of ant person if it appears to the Commission that the person's lifestyle and extent of the properties are not justified by his source of income.

Furthermore, both agencies are statutorily empowered to identify, seize, freeze and confiscate proceeds of corruption, and economic and financial crimes. This is provided for in sections 36-50 (36-41, 44, 46, and 49-50) of the ICPC Act, and sections 6(d), 26 and 34 of the EFCC Act, respectively. The ICPC and the EFCC have jurisdiction both within and outside the country. This is provided for in section 66 of the ICPC Act and section 6 (k) of the EFCC Act.

9. Conclusion

This paper evaluated corruption and highlighted the fact that corruption is a global and ancient menace. It also analysed the two major anti-corruption agencies in Nigeria, the Independent Corrupt Practice and Other Related Offences Commission and the Economic and Financial Crimes Commission, and their enabling laws. It identified areas of conflicts in both Laws and takes the stance that the functions of the ICPC have been submerged in the EFCC. This paper also advanced solutions which, if implemented could effectively tackle the fight against corruption in Nigeria. It is observed that, the functions of the ICPC as provided in section 6 (a) of the ICPC Act and section 6 (b) of the EFCC Act, both agencies are mandated to investigate and prosecute all matters of corruption and financial crimes. It is observed that various stakeholders have advised the government to merge both agencies for optimum performance. This was also the recommendation of the Steven Oronsaye Committee. It is also observed that cases prosecuted by the ICPC can be prosecuted by the EFCC. Furthermore, the people are sometimes compelled to petition or lay complaints before both agencies as they are carrying out the same function, although is obvious that the EFCC has a broader template. It is observed that the EFCC has a broader template, and all the functions of the ICPC has been submerged in the EFCC. This is why the Oronsaye committee recommended the merging of both anti-graft agencies, for optimum performance. It is also observed that corruption is the major cause of underdevelopment of the Nigerian State.

The study therefore recommends that The ICPC should be merged with the EFCC as the functions of the ICPC have already been submerged in the EFCC. In the absence of the above, specific job description should be assigned to each of these agencies. For instance, there are various categories of magistrate courts and each attends only to matters within their jurisdiction or powers. There are also special courts. In essence, if both anti-corruption agencies must be allowed to function, let each be statutorily empowered to handle specific categories of cases. It is also recommended that weak and ineffective agencies should be revamped instead of establishing new ones indiscriminately. The Steven Oronsaye Committee Report should be implemented to bring about maximum efficiency and effectiveness in the public sector. Furthermore, people recruited to head or oversee anti-corruption agencies should be men and women of tried and proven integrity.