

## **Towards Redefining the Legal Frameworks for Combating Corruption in Nigeria: Integrating the Theories of Crime Causation and Penological Concept of Punishment**

By

**Emily I. Alemika<sup>\*</sup> Abdulkarim Kana<sup>\*\*</sup>, Chinwe K.Okoli,<sup>\*\*\*</sup>  
Augustine M. Ayeni<sup>\*\*</sup>, Marian O. Ujah<sup>\*\*\*</sup>, KaboSarinus<sup>\*\*\*</sup>, VickiLawal<sup>\*\*\*</sup>,  
& Ardzard H.S.<sup>\*\*\*</sup>**

### **Abstract**

The paper aims at showing that while punishment is useful in fighting against crime in society-the crime of corruption inclusive, reports have shown that punishment alone is inadequate for winning the battle against corruption in Nigeria. The paper highlights the imperative needs of developing long term measures that would nib corruption in the bud before its full manifestations. It considers synchronising both legal and social approaches by examining the criminological and sociological concepts of crime causation and the penological approaches to punishment. The paper also intends to identify and critically examine some of those factors that had been advanced as causes and the ineffective treatments for corruption, and to find out why are the lofty legal approaches are not effective. Therefore, the objective of this paper is to identify other ways that can complement punishment in order to improve the fight against corruption in Nigeria; by a critical analysis of some theories of causation of crime, in order to redefine corruption and its causes, and finally to proffer suggestions for the needs to re-strategise and reintegrate the existing punitive measures with other non-legal approaches for both short and long terms solutions which could help anti-corruption initiatives to curb the excess of corruption in Nigeria..

### **1. Introduction**

Corruption is an age-long phenomenon that has continued to engender discourse at local level, nationally and at global terrain. Corruption is so pervading and prevalent such that even the so-called nations that are not so corrupt are beginning to be burdened with the plague because of its global effects. Unfortunately, Nigeria as a nation ranks top most globally when it comes to the issue of corruption and corrupt practices.<sup>1</sup> In 2013, the country was rated as the 35<sup>th</sup> most corrupt

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<sup>1</sup> Transparency intervention corruption perception, [www.transparency.org](http://www.transparency.org) accessed April 20<sup>th</sup>, 2016'. See also The Nation 11<sup>th</sup>, 2016. Nigeria and Afghanistan branded as the two fantastically two most corrupt countries in the world

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country in the world.<sup>2</sup> Thus, corruption is viewed as one of the greatest obstacles to the economic growth and prosperity of Nigeria<sup>3</sup>. Recently Nigeria and Afghanistan Governments were rebranded as 'fantastically the two most corrupt countries in the world'<sup>4</sup>.

This derogatory and painful remark by the British Prime Minister-David Cameron, attracted reactions both from government circles and the individuals citizens because of the negative signals and danger poised on the Nigerian image globally. Especially the embarrassment caused the incumbent President Muhammadu Buhari, who has been in the forefront on the fight against corruption in Nigeria, even as a Military Head of State. As a matter of fact, the truth remains that national reactions to this embarrassing remark cannot change or shield Nigeria from the truth that Nigeria as a nation is corrupt ridden with impunity. Corruption has become so contagious like infectious diseases defying any medicinal treatment; corruption in Nigeria seems to have defied all punitive measures. Hence, like the African proverbial adage says, 'as long as clothes or hair/heads is infested with lice; the nails would continue to be stained with blood in the attempt to get rid of the lice through the ineffective crude mechanism. Academic researchers, philosophers, human rights activists, legal practitioners both in private and public, the judiciary, the religious bodies, all the law enforcement agencies and the general populace have greater roles to play. We must join hands with the government of Nigeria to search for better or improved mechanisms to fight against corruption in order to reduce the effects to the barest minimum in the country. It is our belief that to fight corruption to a stand-still in Nigeria, it must start with you and I. Academic researchers, Government and other stakeholders fighting against corruption need to come with empirical commissioned studies that go in-depth beyond the assumption or perceived causes of corruption in Nigeria.

## 2. Some Literature Showing Evidences of Corruption in Nigeria

In the past few decades Nigeria has witnessed a period of gradual economic decline resulting in socio-economic stagnation; the reason for this has been attributed to the phenomenon of corruption which has eaten deep into the fabrics of the nation. Corruption can be broadly defined as unethical behaviour which could be manifested in the use and abuse of political power, mismanagement of funds or a violation of the norms and principles of a given society. In Nigeria, corruption has become a major clog in the quest for sustainable growth and development and has retarded attempts at any form of socio-economic development in the country. Corruption in Nigeria has been viewed from many facets the most prominent of which is political leadership. Political corruption usually encompasses abuses by government officials such as embezzlement as well as abuses within the public and private sector such as bribery and fraud. According to Ogbeyi<sup>5</sup> the political class constitutes the main driving force of corruption and corrupt activities throughout Nigeria's history. Instability in the political scene of Nigeria since independence has been attributed to the claim by various groups of individuals to rid the society of corruption and create good governance. All of these have been without much success but rather resulted in undemocratic processes of governance to the detriment of Nigerians. Corruption in Nigeria can be seen in the following areas:

<sup>2</sup> Transparency International Corruption Perception Index 2013 [www.transparency.org](http://www.transparency.org) accessed April 20 2016

<sup>3</sup> A Keynote Address delivered by Akanbi M.M. at the opening ceremony of the 46<sup>th</sup> Annual Conference of the Nigerian Association of Law Teachers held at the University of Ilorin. 22 – 26 April, 2013. In: Abdulqadir, I.A. et al (eds.) *Corruption and National Development* (Nigerian Association of Law Teachers, University of Ilorin Press, Ilorin) 2013 .

<sup>4</sup> The British Prime- David Cameron made this embarrassing statement publicly during the 90<sup>th</sup> Birthday of the Queen while briefing her on the forth coming Anti Corruption submit which was to be hosted in London as reported by several news paper including the Nation, Daily Trust newspaper etc. On 11<sup>th</sup> May,2016.

<sup>5</sup> Ogbeyi, M. M. Political leadership and corruption in Nigeria since 1960: A socio-economic analysis. *Journal of Nigerian Studies*, (2012).1(2), 1-25.

### Corruption in political leadership

These refer to the group of people that exercise political power and are responsible for decision-making processes in government. Members of the political class in Nigeria have been known to use their power for personal gain and self-aggrandizement which has majorly accounted for the long years of mismanagement of the resources of the country. Both military and civilian regimes have consistently perpetrated acts of corruption for personal, ethnic or religious gains.

### Corruption in the business sector

Corruption has also pervaded the business and private sectors in Nigeria which has affected the economic potentials of the country and discouraged foreign investments. Advances in electronic communication for example, have created critical concerns in the economy particularly with increasing cases of money laundering, advance fee fraud (419) and other challenges within the banking sector which have further undermined the growth and stability of the nation's trading and financial system. Efforts at economic reforms through the establishment of such anti-corruption agencies as the Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) to ensure fair and equitable practices have so far yielded minimal results.

### Corruption in the educational sector

Challenges in the educational system have lingered for years mainly due to lack of funding, poor infrastructure and inadequate manpower both at the basic and tertiary levels. A noticeable aspect of corruption in the educational system in Nigeria is that of academic dishonesty which has been on the increase. Over the years, educational administrators have been confronted with examination malpractices by students which have forced them to undertake more stringent measures to address the problem. Issues of academic dishonesty have further cast doubt on the credibility of academic qualifications obtained in Nigeria by other countries<sup>6</sup>. The Federal Ministry of Education and the National Universities Commission (NUC) which coordinates activities relating to all universities and educational activities in the country have been working on addressing these forms of corruption in the educational system. Developmental growth in Nigeria has been stunted due to the activities of corruption. In spite of her huge natural and human resources, Nigeria is today considered among the poorest countries with most of the population living below the poverty line due to corruption. The direct or indirect consequences of corruption have led to a gradual decline in the services expected to be provided by the government as high areas of priority. The current expectation of the citizenry is that some of the established institutions designed to help fight in the country will arise to the greater responsibility of ensuring that corruption is destroyed or reduced to the barest minimum in order for Nigeria to move forward and regain its place among the comity of nations.<sup>7</sup>

### 3. Perception of Corruption and Its General Effects

The general perception of the concept is that corruption is prevalent in any given society due to extreme inequality.<sup>8</sup> In Nigeria, this view generally holds water. Thus in Nigeria for example, a person looking for employment in a government establishment would go as far as borrowing

<sup>6</sup> Agbu, O. *Ethics and Leadership in Nigerian Universities: a Study of Staff-Student Relationship at the University of Lagos*. (2011) <http://www.studymode.com/essays/Ethics-and-Leadership-In-Nigerian-Universities-716020.html> Accessed May 2016

<sup>7</sup> Ayobami, O. O. Corruption eradication in Nigeria: An appraisal. *Library Philosophy and Practice*. (2015) <http://unllib.unl.edu/LPP/> Accessed May 2016

<sup>8</sup> A.C. Dwivedi. 'Bureaucratic Corruption in Developing Countries.' *Asian survey* vol. 7 No.4 april 1967 University of California press. [www.jstor.org](http://www.jstor.org) accessed April, 2016

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money to bribe in order to gain the employment to improve his or her standard of living. Similarly, a person already in government employment may view his or her income as inadequate and need to augment the low income to improve his status. The same goes for a candidate who needs to pass entrance examinations in order to scale through the limited space available for admission, engages in exam malpractice. He or she soon discovers after the cheating to get admission and he did get admission, he needs to also bribe his way to get first class which is the set goal of his society. He or she also then goes ahead to offer money to lecturers in order to get the desired result. However, with high rate of unemployment, he or she soon discovers the needs to bribe his or her way to get employment. After getting a job, soon he or she discovers he needs to get promotion to the top. In all the situations, both the givers and the takers of bribes are no longer rational beings because so far the ends have justified the means. Thus corruption had become an internalized revolving in circle. The questions that may arise from the above perceptions of causes and illustrations of corruption and corrupt practices are:

1. Can we continue to lay claim for all times, on gross 'inequality and absolute poverty' as factors fostering corruption in Nigeria?
2. Can this claim stand for all types of corruption in diverse form and areas of operation?
3. What is responsible for the uncontrolled-able offering of bribe at every slightest opportunity in the instances of the illustrations above?

Better still, we can adduce that the continuous use of legalistic approaches to combating corruption in Nigeria is like applying medicine after death by treating the crime of corruption without a critical look at the root-causes. Going a step back to the unanswered questions above, suffice it to say, while we are in search for the correct answers to fight corruption, those variables of inequality and poverty are evident and could pave ways for corruption. However, such a situation cannot be advanced as absolutely responsible for corruption in Nigeria. This is because the faces and phases-types and dimensions of corruption in Nigeria seem to suggest that greed, materialism-ostentatious living, seekers of political power and affluence appears to be the leading factors for corruption in Nigeria.<sup>9</sup>This requires paying more attention to the root causes, in order to get appropriate punishment. Corruption is also said to be rooted in African culture, 'custom, 'attitude, or 'habit of 'giving gift'<sup>10</sup> either as an expression of good will and respect towards friends, partners, consensual leaders and or tributes to authoritarian leaders; or 'gift giving' in anticipation to receive favour or giving in appreciation of favours done in the past.<sup>11</sup> Therefore, what is regarded as corruption in one environment is nothing more than cultural practice in another culture; which invariably have by and large been internalized.

#### 4. Conceptual Definition and Explanation of Corruption in Nigeria

Part of the major challenges associated with corruption is the absence of a conceptual definition of corruption. According to Brownsberger<sup>12</sup>, the word corruption is not amenable to an easy definition. It varies across cultures, time frame, the geographical bounds, and criminal justice of

<sup>9</sup> William N. Brownsberger. 'Development and Governmental Corruption-Materialism and Political Fragmentation in Nigeria' *The Journal of African Studies* 21.2 (1983) 215-233.

<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> William N. Brownsberger. 'Development and Governmental Corruption-Materialism and Political Fragmentation in Nigeria' *The Journal of African Studies* 21.2 (1983) 215-233

individual countries. Akomolede et al.,<sup>13</sup> is also of the view that the definition of the term 'corruption' depends on who is defining it and from what perspective. Dwivedi<sup>14</sup> opines that 'Corruption carries different meanings. Many writers have avoided defining it mainly because the meaning of unethical behavior, and corruption comes under it, differs from one culture to another. An unethical act in one culture may be socially acceptable in another'. This suggests that the term corruption has no generally acceptable definitions and therefore depends on who is defining and from which perception, the environment, the criminal justice angle and for what purpose. Hence, the conceptual understanding of corruption is one of the major Herculean task of effectively tackling the fight against corruption in Nigeria. A more comprehensive, clear and concise definition(s) is desirable as parts of the solution to fight against corruption in Nigeria.

In addressing corruption from a socio-cultural view to give some understanding and clarity of this paper, below are some attempts on the conceptual definitions of corruption. Corruptions is summed up in the words of Brownsberger<sup>15</sup> as 'Misappropriations of public goods- bribery, nepotism,, political favouritism - in violation of the Western legal and regulatory codes that have been inherited by many developing countries along with Western state structures from their colonial government. Arguably this definitional concept is coming from a man although a white man but who views corruption from both the colonial masters and view point of members of his colonies. Brownsberger in 1983 x-rayed corruption in developing countries with focus on Nigerian cultural practices as one of the major factors responsible for corruption. To him, corruption has different meanings or connotation in the context of both the colonisers and the members of the colonies with different socio-cultural and political background. Therefore, what may be regarded as corruption to a white man may just be a cultural practice to a Nigerian. The writers gave an apt illustration of Okonkwo in "Things Fall Apart". Okonkwo needed to loan some yam seeds to plant for the next farming season. As a custom or practice in Igbo community 'he who pays respect to the great paves' way for his own greatness. I have come to pay my respects and also to ask for a favour'. With this mind set, Okonkwo went to one of the elders in the community with a cock, a keg of palm-wine, some cola nut and alligator pepper in order to seek for the loan of yam seeds. From this point of illustration, it goes to show that fighting corruption that have been so internalized with cultural or religious dichotomy might not be easy especially, even if where provisions of law is harsh enough to deter and such law is weak or lacks enforcement, it would have no meaning to the would-be defaulter. We need long term re-orientation of Nigerians to internalize anticorruption measures while applying the short measures to cushion the effects of corruption on our economy and the nation as a whole. Igwe defines corruption as:

Conscienceless promptitude to use power authoritatively for selfish, repressive and oppressive purposes, unpatriotic and unjustifiable political discrimination and victimization, scandalous politicking on the corridors of power, unhealthy and despicable election malpractices as well as political arrogance and bitterness: readiness to sacrifice all values no matter how sacrosanct or strategic in the useless worship of and mad rush for money, wealth, scandalous practices of

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<sup>13</sup> Akomolede T.I. et al 'The Independence of Anti- Corruption Agencies in Nigeria: Possibilities and Challenges' in In: Abdulqadir L.A. et al (eds.) *Proceedings of the 46<sup>th</sup> Annual Conference of the Nigerian Association of Law Teachers*, Nigerian Association of Law Teachers, Nigeria Held at University of Ilorin 2013

<sup>14</sup> O.P. Dwivedi 'Bureaucratic Corruption in Developing Countries' *Asian Survey*. Vol. 7. NO. 4. University of California Press (1967) 245-253.

<sup>15</sup> Ibid.



diverting public funds into private coffers and of inflating government contracts and other business deals in the hope of eventual kick-backs.<sup>16</sup>

On the whole, corruption can be viewed as the deliberate or inadvertent violation of ethics and codes that are supposed to govern the behaviour of a particular profession, public service operations, private transaction, private and corporate contract agreements that amounts to selfish dishonest personal gains which makes another person, the system or the society to suffer any form of disadvantage therein.<sup>17</sup> The Corrupt Practices and Other Related offences Act<sup>18</sup> defines the term 'corruption' as including bribery, fraud and other related offences'. Similarly The World Bank defines the term corruption as "abuse of public office for private gain."<sup>19</sup> National Accountability Ordinance<sup>20</sup> also defines corruption as, illegal gratifications, bribery, extortions, abuse of office (for personal gains emphasis mine), fraud, cheating and criminal breach of trust.

##### 5. Corruption and Punishment in Nigeria

As indicated earlier, we do not intend to go in-depth into the various provisions of law as they relate to corruption in Nigeria but rather try to identify some of these legal and institutional frameworks showing the sufficiency or effectiveness and efficiency or otherwise of the provisions of law for fighting corruption. Hence, our focus is whether the available punishment for corrupt practices in Nigeria has impacted on the fight against scourge of corruption in the country or not. Secondly, we wish to intensify our efforts more on the theoretical criminological approach to crime causation and the penological concept of punishment as possible alternatives for combating the plagues of corruption in the society-Nigeria. 'Punishment is described as the authoritative imposition of an undesirable or unpleasant action upon a group or individual, in response to a particular action or behaviour that is deemed unacceptable or threatening to some norms or in violation of sets of rules or criminal law in the society. It is on record that various anti-corruption initiatives, both legal and institutional frameworks, have been instituted to fight corruption in Nigeria since the inception of the menace.' These include several existing and the new statutory provisions such as, the Penal Code<sup>21</sup>, the Criminal Code<sup>22</sup>, the Corrupt Practices and Other Related offences Act,<sup>23</sup> the Advance Fee Fraud and Other Related offence Act.<sup>24</sup> We also have other scores of institutional frameworks like, the Code of Conduct Bureau (CCB), Code of Conduct Tribunal (CCT), Economic and Financial Crimes Commission Establishment Act,<sup>25</sup> ICPC and a host of others; either established directly or by inference to fight the menaces of corruption in the country but to no avail. Nigeria is also a signatory to the first international legal instrument-the UN Convention against Corruption (UNCAC). This is a multilateral international instrument against corruption. Nigeria did not only sign the Convention in 2003 but ratified it a year later in 2004. UNCAC contains measures aimed at preventing domestic and foreign bribery, embezzlement and money laundering, it has mechanisms for strengthening the international law enforcement, judicial cooperation, technical assistance, asset recovery, and

<sup>16</sup> Quoted in Sesan Peter. 'Corruption and Terrorism Vices: The Bane to National Development' in Emily Alemika (Ed.) *Journal Public Law and Constitutional Practice* 4.2. (2012) 144-158.

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<sup>18</sup> C31, LFN 2004

<sup>19</sup> The World Bank Group, *Corruption and Economic Development*. Retrieved from [www1.worldbank.org/publicsec](http://www1.worldbank.org/publicsec) Accessed visited on May 1, 2016

<sup>20</sup> S.9 National Accountability Ordinance 1999

<sup>21</sup> Cap 89 Laws of Northern Nigeria 1963, Vol. III

<sup>22</sup> Cap C 38 LFN 2004

<sup>23</sup> Cap C31 LFN, 2004

<sup>24</sup> Act No. 14 of 2006

<sup>25</sup> Cap E 1 LFN, 2004

information sharing on corruption<sup>26</sup> These various statutes dealing with corruption and corrupt practices prescribe punishment for the different conducts amounting to corrupt practices in the country. In spite of the available punishments for corrupt practices in Nigeria, corruption and corrupt practices continue to grow unabated and with impunity in the society. Some of the statistics on the provisions of law showing legal apparatus for fighting against corruptions in Nigeria and their anticipated effects are further enumerated hereunder. Nigeria prior to 1999 have in one way or another made efforts to tackle the problem of corruption and related offences in the country through the existing statutory provisions; such as the Penal Code Criminal Code, the CPC, CPA, the Corrupt Practices and Other Related offences Act,<sup>27</sup> the Advance Fee Fraud and Other Related offence Act<sup>28</sup> and a host of others as earlier listed above. These existing legislations were operated mostly under military regimes, with some positive results. But corruption remains untackled holistically. Therefore, some of the efforts to fight the scourge did not translate into dedicated legal or institutional framework until the establishment of the Independent Corrupt Practices Commission (ICPC) in 2000<sup>29</sup> and the Economic and Financial Crimes Commission (EFCC) in 2002<sup>30</sup>.

The respective Acts establishing these Commissions criminalized and prescribed punishments for certain corrupt practices. These Commissions in addition to the regular court proceedings have become the main organs empowered to prosecute cases of corruption in Nigeria and ensuring punishment for offenders especially, the EFCC. It is also important to note that the Commissions are not limited to prosecuting offences tenable only under the respective Acts establishing them but also can have recourse to such other corrupt related offences under the Penal Code,<sup>31</sup> the Criminal Code,<sup>32</sup> the Advance Fee Fraud and Other Related offences Act<sup>33</sup>, the Money Laundering Prohibition Act<sup>34</sup> etc. As mentioned earlier, it is not only the EFCC and ICPC that are the two institutions charged with the responsibility of prosecuting corruption cases in Nigeria,<sup>35</sup> but, they are the institutions whose respective mandates principally is to fight against the scourge of corruption in the country. Therefore, in order to determine the impact of punishment on the fight against corruption in Nigeria, we focus more on the prosecuting activities of the two Commissions of the available data on prosecutions and convictions of corruption cases handled. Some of the statistical data under consideration are gathered covering over a decade, most of which are documented by the Transparency International's annual Corruption Perception Index from 1998 to 2013. Ardard<sup>36</sup> succinctly presented some statistical accounts of activities of the anti-graft provisions for fighting corruption which one way or the other has yielded little result. The details are shown below:

## **6. Data on the State of Corruption and Activities of EFCC, ICPC & other related legal & Institutional Frameworks in Nigeria.**

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<sup>26</sup> Art.9 is very instructive as it requires each member State to institute an appropriate system for procurement that is transparent and effective for preventing corruption at national level. However, after over a decade of UNCAC there had been no remarkable improvement on menace of corruption in the nation

<sup>27</sup> Cap C31 LFN, 2004

<sup>28</sup> Act No. 14 of 2006

<sup>29</sup> Vide the Corrupt Practices and Other Related Offences Act op.cit

<sup>30</sup> Vide the Economic and Financial Crimes Commission (Establishment) Act op.cit.

<sup>31</sup> Cap 89 Laws of Northern Nigeria, Vol. III 1963

<sup>32</sup> Cap C38 LFN 2004

<sup>33</sup> Act No. 14 of 2006

<sup>34</sup> Cap M18 LFN 2004 now amended by the Money Laundering Prohibition Act No. 11 of 2011.

<sup>35</sup> The Nigeria police, the Attorney General of the Federation or of a State are also legally empowered to prosecute cases involving corruption although in the case of the Nigeria Police, they mostly prosecute such offences which are against the provisions of the criminal code and the penal code.

<sup>36</sup> Ardard's article 'An Examination of The Concept of Punishment and Its Impact In Combatting Corruption' aptly describes and capture the much needed information on the performance of the commissions and the impact of corruption on Nigerian's Economy.

- Between 1998 to 2002, Nigeria was rated 81 Out of 85 the most corrupt country in the world and the second most corrupt country in the world.
- In 2004, was ranked 144 out of 145 countries assessed with a score of 1.6.
- In 2005, the country was ranked 152 out of 160 countries with a score of 1.9 and
- In 2006, the country ranked 142 out of 160 with a score of 2.2.

*Comment: Between the period 1998 and 2005, Nigeria never scores up to 2.0 points out of 10. This portrayed how little the effect of punishment on the problem of corruption in Nigeria. The reports above show corruption and corrupt practices in Nigeria have been consistently prevalent (Transparency International ( 2004). [www.transparency.org](http://www.transparency.org) Accessed June 12, 2015, Independent Corrupt Practices Commission Annual Report. (2006) This report is the latest report available in the Library and other sources of record of the ICPC as at May 19, 2014).*

- Between 2000 and 2006, the ICPC received 2,800 petitions filed only 91 of such cases and secured only seven convictions
- Between 2002 and 2005, the EFCC received 2,324 petitions.
- Prosecuted 125 cases and also secured seven convictions.

*Comments: This means, between 2000 and 2006, both the ICPC and the EFCC secured only 14 convictions. Thus, within the same period, Nigeria's ratings in TI's corruption perception index improved only marginally. It also show that anti-corruption initiatives are doing very little to secure conviction (Transparency International ( TI 2004). [www.transparency.org](http://www.transparency.org) Accessed June 12, 2015, Independent Corrupt Practices Commission Annual Report. (2006). This report is the latest report available in the Library and other sources of record of the ICPC as at May 19, 2014).*

- Between 2003 -2011, the EFCC secured a total of 616 convictions in cases involving corrupt practices from various courts in Nigeria. (Waziri, F. (2011, May) A paper presented to the Nigeria – British Chamber of Commerce on 7 May, 2011. Retrieved from [www.proshareng.com](http://www.proshareng.com) visited on June 20, 2015).
- Also In 2012, the EFCC received 4,914 petitions. It prosecuted 502 and secured 87 convictions representing 17.3 percent of the cases prosecuted. In 2013, the commission received 6,089 petitions; it prosecuted 485 and secured only a total 117 convictions representing 24.1 percent of the cases prosecuted.(EFCC (2013). Annual Report at p. 10 TI (2012) and Transparency International (2013)

From this data presentation, the simple analysis is, if as at 2011 the country's score was 27 and between 2012 and 2013 the country's scores were 25 and 27 respectively, it means that in TI's assessments of the level of corruption in the country in those two years, the country has not achieved any improvement. The implication is from the above analysis, it can be deduced that Anti-Graft provisions are less effective or the various institutions-EFCC, ICPC, etc., are too weak to effectively prosecute corruption. Thus, in spite of the punishment imposed for corrupt practices in Nigeria are of little or no effect. For instance, the highest scores recorded on reduction of corruption and corrupt practices; by the country from 1999 to 2013 are 2.7 out of a possible 10 or 27 out of a possible 100. Going the remarks made by the British prime Minister- David Cameron in May 2016 rating Nigeria and Afghanistan as 'fantastically the two most corrupt in the world'<sup>37</sup> Corruption in Nigeria is back to square one, as confirmed in the words of the Prime Minister, It is therefore submitted that despite the punishment imposed for corrupt practices in Nigeria, corruption has not meaningfully abated in the country.

<sup>37</sup> See The Nation May 11, 2016.

## **7. Manifestations of Corruption in Nigeria**

Corruption in Nigeria manifests in different and diverse ways and are often traceable to some of its root causes which include, traditional or cultural practices- referred to as 'anachronistic tradition'<sup>38</sup> and undue pressures on officials, colonial imperialism, materialisms, Urbanization, political fragmentation, divided loyalty fueled by religion and ethnic pluralism.<sup>39</sup> Some of which may also constitute the causes of corruption in Nigeria. Therefore, corruption in Nigeria manifests in the following forms; (a) through government procurement, (b) people operating in individual capacity while seeking for one favour or the other, (c) Administrative setting- people working in official capacity, (d) Politically motivated corruption, (e) Corruption is also manifested in the educational system, (f) The general manifestation is on economic and financial crimes.

## **8. Types, Causes and Impact of Corruption in Nigeria**

Many writers and researchers have advanced the types and or, classifications of the reasons accountable for the causes of corruption, especially in developing countries such as Nigeria; some of which are indicated hereunder:

The first one is classified under materialism and political Fragmentation.<sup>40</sup> This is further broken down into custom, attitudes<sup>41</sup> and habits, greed or ostentation living and pressure on officials<sup>42</sup>. Here, Government officials that may have been pushed into corrupt practices may however have been pushed by materialism or being influenced by individuals or organizations seeking benefits from the government officials, which most often are very difficult to refuse.<sup>43</sup> Here, the law enforcement agencies which are supposed to deter corruption may be so weak such that there might be little threat of detection from audit control or even from police operations<sup>44</sup>. On the other hand, public outcry against corruption may not be widely accounted for because the government of the day that are perpetrating the act are also in control of the press or the general population are either illiterates or though educated but not in the total picture of what goes on in the government.<sup>45</sup> Also, there may be lack of professional associations to voice out or where they exist, may be too weak to sanction members that engage in corrupt practices<sup>46</sup>. A situation also arise that corruption is so widespread that everybody either gets involved leaving only very few to fight against it.<sup>47</sup> You will agree with fact that corruption in Nigeria today is characterised by the above listed for which there had hardly been any solution to counter the plagues of corruption that had swallowed up national socio-economic and political development.

Another classification worth noting is the political environment. This category like the first is characterised by different class struggles as to who should dominate the political climate. Wealthy class who are excluded from political power use their economic powers either at parliamentary stage through electoral process by making huge contributions to sponsor cabals, gift to legislators to influence bills and bribe their way to the administrators who are charged with the implementation of all governmental policies. The ethnic minority who are often marginalized seek relevance through illegitimate means. It has been established that where the channels of the interest-group expression are not well developed to present their interest, corruption might be the

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<sup>38</sup> This observation was made by Brownsberger See fn. 1 above

<sup>39</sup> Ibid. Some of these ideas were from William N. Brownsberger. Who wrote on 'Development and Governmental Corruption-Materialism and Political Fragmentation in Nigeria'. I merely expand the root of corruption so the anticorruption initiatives would be able to appreciate where we are coming from to give sense of further direction

<sup>40</sup> Ibid. Brownsberger *The Modern Journal of Africa* at p.215

<sup>41</sup> Ibid Wraith and Simpkins quoted by Brownsberger at p.216

<sup>42</sup> Ibid.fn.1

<sup>43</sup> Ibid. fn.56 atp. 217

<sup>44</sup> Colin Leys, 'What is the Problem about Corruption?' in *The Journal of Modern African Studies* (Cambridge)3.2 1965. P.215 quoted in Brownsberger.

<sup>45</sup> Ibid. at p.217

<sup>46</sup> Ibid, Wraith and Simpkins

<sup>47</sup> Ibid. fn. 55. McMullan, *Climate of Corruption* 'Affecting cabinet Ministers as well as police.' At p.217

only avenue to influence the government in decision-making<sup>48</sup>. Examples of corrupt practices abound where importers instead of struggling to liberalize, import policy collectively, would rather secure import licenses for their own personal use.

### 9. Corruption and its Causes

Causes of corruption in Nigeria are categorized under four major headings: polite, Ostentation-driven by materialism, Nepotism, and alienated corruption. Time and space would not permit us to go into detailed explanation of the major categories indicated above. Hence the four categories are further expanded to include but not limited to; poor salary structure, Unimaginable Inequality in Distribution of Wealth, Wrong Conception or perception of Occupying Political office, Wrong or no Value System, Lack of national spirit, Fragmented political system, Ethnicity, Tribal/Religion sentimentalisms, Poor and Ineffective Governmental Enforcement Mechanism, Lack of Transparency in the Judiciary and abusive use of technicalities by the legal practitioners to knock out good cases that attract prosecutions and subsequent sentencing is getting alarming (weakened judiciary and the collusion with the legal practitioners to scuttle the trial of corrupt officers), Weakness of Anti-Graft Agencies as Watch Dogs, Civil service in hiring no longer follow due process for employment<sup>49</sup>. Going by these overwhelming lists of types and factors responsible for corruption in Nigeria, we need to pause and ask ourselves the question, 'how can we escape the magnitude of corruption in this country? This question arose because of the overwhelming situation of corruption in Nigeria as indicated above that makes it practically impossible to arrest the situation meaningfully. Again, this paper has no ready-made answer. One thing that is sure is that there is probably no problem that is insurmountable. From academic point of view, if more time is devoted to studying the dicey situation over a period of time through a well thought out commissioned research formulation by a well-meaning and sincere government that is willing and endowed with political power (as we are presently experiencing under Buhari's Administration), to work with credible Nigerians, the end of this ravenous corrupt practices would soon emerge if only we are committed through unified national spirit.

### 10. Corruption and Its Impacts

Corruption in Nigeria accounts for many woes that betide the nation<sup>50</sup>. The Nigerian legal system does have couple of legislations enacted to fight crime, the menace of corruption inclusive-being our subjects of discourse. Some of the legislations include:

- ❖ The Penal Code<sup>51</sup>, the Criminal Code,<sup>52</sup>
- ❖ The Money Laundering Act<sup>53</sup>
- ❖ The Failed Banks Recovery of Debts and Financial Malpractices in the Bank
- ❖ The Code of Conduct Bureau and Tribunal Act,
- ❖ The Corrupt Practices and Other Related offences Act,<sup>54</sup>
- ❖ The Economic and Financial Crimes Commission Establishment Act,<sup>55</sup>
- ❖ The Advance Fee Fraud and Other Related offence Act,<sup>56</sup>

<sup>48</sup> Ibid. fn. 55. Scott, 'The Analysis of Corruption In Developing Nation' –making distinction between legislation and enforcement and the kinds of operating at the two levels p.218

<sup>49</sup> The Daily Trust of 9 May 2016 captioned on the front page says, 'Civil Service Commission Hires 4,9116 illegally'. The hiring were effected between 2013-2015 under good luck administration, not following the due process of employment as obtained under the Federal Civil Service Commission (FCSC)

<sup>50</sup> Professor Bolaji Owasanoye lamented over the sorry case of corruption in the country in a workshop recently organized by the Presidential Advisory Committee on Anti-Corruption (PACAC) where he referred to these packs of the impacts of corruption as "The Corruption Burden. The level of corruption in the country is truly burdensome which require urgent attention

<sup>51</sup> Cap 89 Laws of Northern Nigeria 1963, Vol. III

<sup>52</sup> Cap C 38 LFN 2004

<sup>53</sup> 2011

<sup>54</sup> Cap C31 LFN, 2004

<sup>55</sup> Cap E 1 LFN, 2004

The various statutes dealing with corruption and corrupt practices as indicated above also prescribe punishments which include fines, terms of imprisonment, assets forfeiture and freezing and such other legal means to deter.

### 11. Theories of Crime Causation, Penological Concept of Punishment and Corruption

Nigeria inherited colonial form of legal system that was alien to the African traditional system of governance and adjudication. Historically, therefore, the Nigerian criminal justice agencies were created, not as instruments of security and justice, but as weapons of oppression.<sup>57</sup> The repressive system ushered in a neocolonial system that is prevalent in Nigeria political, socio-economic and legal system today.<sup>58</sup> Neo-colonialism is a political and economic order whereby the indigenous rulers continue after independence to maintain colonial typed-institutions to promote their own interests just like the way the system was favourable to their former colonizers to the detriment of their own nation and people. This may have accounted for the rigidity of our law but yet are not effective to deter 'big-time-corrupt, people. More especially, most of the acts of corruption are perpetrated by people in power who use their position to cover their corrupt practices'<sup>59</sup>.

The idea is to go beyond utilitarian approach to punishing crime of any kind to a combination of legal and social approaches; some of which are to provide comprehensive legal and institutional framework for national development, planning and governance to provide employment opportunities to reduce sources that produce conducive environment for corruption and corrupt practices in Nigeria. Thus, the analyses in this paper involved a theoretical discussion of crime causation, societal reactions and the penal policy for redressing the menace of corruption in Nigeria. Some of the theoretical frameworks dealing with crime and causations-corrupt practices inclusive, are embedded in some major theories of crime and causation. These include;

- The classical theory of crime, Neo-classical theory,
- Biological and Psychological Theories,
- The Sociological theories of Criminal Behaviour.
- Differential association theory, (which says "bad company corrupts good manners")
- Control Theories of Crime and Delinquency,
- Anomie theory,
- Subculture Theories

By giving scientific and empirical explanation of the root cause of a given crime phenomenon, it is possible and easier to find appropriate solution to curb the excesses before the actions are fully blown into crime awaiting stiff legalistic measure which sometimes may not guarantee the fact that it would bring the crime under control.

### 12. Sociological Theories of Crime Causation

Sociological criminology proposes that crime and delinquency are caused more by the interplay of social, political, economic and cultural factors and forces than by biological and psychological pathologies. Accordingly, sociological/criminological theories have variously explained crime and delinquency as products of anomie precipitated by disjunction between goals and means; conflict of cultures; social learning and differential association, social bonding and control, social injustice and oppression embedded in capitalist political economy and so on.<sup>60</sup>

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<sup>56</sup> Act No. 14 of 2006

<sup>57</sup> (Odekunle 1979; Alemika 1983, 1988, 1993a, Ahire 1991; Adewoye 1977, Tamuno, 1970; Milner 1972; Alemika and Chukwuma 2000).

<sup>58</sup> E.E. Alemika and I.C. Chuwuma, *Juvenile Justice Administration in Nigeria* CLLEN Foundation 2001

<sup>59</sup> Most of the information and ideological analysis reviewed under this title are those already expounded upon by an erudite professor a renowned and nationally acclaimed Criminologist-Professor EEO Alemika and his Associate I.C. Chukwuma- the Founder of CLEEN Foundation. Under, *JUVENILE JUSTICE ADMINISTRATION IN NIGERIA: Philosophy and Practice*. There here by duly acknowledged

<sup>60</sup> Ibid. E.E. Alemika and I.C. Chukwuma fn. 84.

### Social Disorganization Theory

Social disorganization perspective argues that crime and delinquency is produced by social disorganization. Shaw and McKay<sup>61</sup> defined the indices of social or community disorganization as population heterogeneity, rapid population turnover, poor standard of living of residents, dilapidated building structures, weak social ties among residents and absence of dominant cultural patterns shared by most residents. Areas or zones of cities characterized by these indicators of social or community disorganization record high incidence of crime and delinquency as well as high rates of mental illness, infant mortality and other social problems. Delinquency from this perspective is caused by social disorganization. The specific features of community disorganization that lead to delinquency were described as:

...Successive changes in the composition of population of the alien culture, the diffusion of cultural standards...result...in dissolution of the neighborhood culture and organization. The continuity of conventional neighborhood traditions and institutions is broken. Thus, the effectiveness of the neighborhood as a unit of control and as a medium of the transmission of the moral standards of a society is greatly diminished<sup>62</sup>.

The critical view of this perspective is that the absence of strong community and social ties, inadequate socio-economic opportunities as well as lack of dominant and consistent cultural norms in the neighborhood of cities can generate high rate of crime and delinquency in society<sup>63</sup>. By applying this propositions of Shaw and McKay to the Nigerian setting, whereby abject poverty, inequality, social disintegrations, massive unemployment of youths, inconsistent cultural norms, wrong national value and the likes; dominate governance in Nigeria.

### Anomie or Strain Theory

Another theory worth noting is anomie or strain theory which refers to state of normlessness in society. Here crime and delinquency have been explained as reactions or modes of adaptation to strain or frustration caused by disjunction between the culturally prescribed goals and institutionalised means for the realisation of such goals. According to Merton social structures exert enormous pressures on individuals<sup>64</sup>. One of such pressures is that the social structure determines the nature of the aspiration of their citizens. Thus, the pressing needs lead people to corruptly enriching themselves. According to Merton, aberrant behaviour including crime and delinquency may be regarded sociologically as a symptom of dissociation between culturally prescribed aspirations and socially structured avenues for realizing these aspirations.<sup>65</sup> Furthermore, cultural goals are emphasised without corresponding emphasis on the means of attaining those ends. Consequently, society creates the condition whereby the realization of the goal is emphasized to the detriment of the institutionalized means. Crime and delinquency result from overwhelming emphasis on goals, success or aspirations without corresponding emphasis on the means. This often led to over criminalisation leading to ineffective punitive measures. In Nigeria, there is overwhelming emphasis on being successful which means to be wealthy, to engage in ostentatious lifestyle and conspicuous consumption (possess expensive cars, large and expensive buildings, make huge donations at public fund-raising, etc), to be highly educated and to wield political power. Therefore, the explanation of crime and delinquency lies in the degree of correspondence between culturally prescribed goals

<sup>61</sup> Shaw, C. R. and McKay, H. .D. *Juvenile Delinquency and Urban Areas* Chicago: University of (Chicago Press 1942) as referenced in E.E. Alemika and I.C. Chukwuma fn. 84

<sup>62</sup> (Shaw 1951:24)

<sup>63</sup> Ibid

<sup>64</sup> Merton, R.K., "Social Structure and Anomie", in *American Sociological Review* 3: (1938) 672-682, and R. K. Merton *Social Theory and Social Structure* Glencoe, Ill., The Free Press. 1968.

<sup>65</sup> Ibid. E.E. Alemika and I.C. Chukwuma fn. 84

and institutionalized norms or means for attaining the cultural goals<sup>66</sup>. The pressure experienced by those who are excluded from the institutionalised means for realising cultural goals can lead those individuals to adopt five modes of adaptation. These according to Merton are conformity, innovation, ritualism, retreatism and rebellion. This Merton's theory is referred to as crime topology. Conformity is a mode of adaptation whereby no matter the strain exerted on people in the society, majorities continue to seek the attainment of cultural goals through institutionalised means. Such people choose *conformity* as mode of adaptation. Some individuals, however, pursue the realisation of the cultural goals through innovation (by doing away with institutionalised means (because they are not readily available) and adopting unlawful means by innovating new but illegal options. For example, a young man interested in gaining admission to the university may be annually frustrated by limited spaces and requirement of a high score in University Matriculation examination. Nonetheless he or she may continue to sit for the examination, praying and hoping that he/she will succeed and gain admission to a university one day, and thereby meet one of the society's culturally prescribed goals for the citizens. Another Nigerian may adopt innovation, by devising means of cheating at the examination or inducing university authorities to admit him/her. In both cases, the individuals were pursuing the culturally prescribed goals, the latter through innovation-an adaptation of unlawful means to the realisation of culturally prescribed goals. According to Merton, the adaptation of innovation entails the pursuance of the goals prescribed by society through unlawful means<sup>67</sup> Similarly, drug trafficking, corruption and embezzlement, sale of sub-standard goods, examination and admission malpractices, election rigging and violence etc. to obtain wealth, education and political power; are all parts of innovation to achieve institutionalised goal through illegal means.

*Ritualism* is another mode of adaptation in Merton's crime typology. These groups of people focus on the institutionalised means and by ignoring whatever the set goals. The retreatists simply withdraw from society. They are satisfied to be recognised as hardworking and honest, even if they do not attain the goals (wealth, education and power) prescribed by society. However, these groups of people hardly engage in any form of crime but are likely more often result to alcoholism, drug addict, and the likes. Finally, the *rebellion* groups of people are those who reject both the validity of cultural goals and institutionalised means prescribed by society and substitute for goals and means of adaptation.<sup>68</sup> From these analyses, the innovation and rebellion mode of adaptation may constitute a deviant adaptation that may involve crime of corruption most for which the anti-corruption initiatives need to focus when looking for solution to combating corruption in Nigeria. The anomie or strain theory is probably the most popular sociological explanation of crime and delinquency since its proposition in the 1930's. Shaw and McKay observed that:

... Where there is the greatest deprivation and frustration...and where there exists the greatest disparity between the social values to which people aspire and the availability of facilities for acquiring these values in conventional ways, the development of crime as an organized way of life is most marked. Crime, in this situation, may be regarded as one of the means employed by people to acquire, or to attempt to acquire, the economic and social values generally idealized in our culture, which persons in other circumstances acquire by conventional means.<sup>69</sup>

### **Social Learning and Differential Association Theory**

Social learning and differential association is another theory that attempt to explain the processes and mechanisms by which criminal and delinquent behaviours are learnt. The proposition was

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<sup>66</sup> Ibid.

<sup>67</sup> Ibid. at p.21

<sup>68</sup> Ibid.

<sup>69</sup> Shaw and McKay (1942:439) fn. 86.



propounded by Edwin Sutherland in 1939. He opined that there is nothing unusual in the process of becoming a criminal. Criminal and delinquent behaviours are learnt in similar processes as people learn to become mechanic, plumbers, electrician, criminologists, lawyers, physicians, scholars, poets, and so on. Differential association theory identified the methods or processes through which criminal behaviour is learnt. The last proposition attempts to show that the same values and needs may lead some individuals to obey the law while it may lead others to violate the law depending on what they learnt as methods of realising those values and needs.<sup>70</sup> This theory has contributed largely to the significant attention paid to the influence of family, peers and mass media (especially electronic medium of mass information and entertainment) on crime and delinquency. The Peers and mass media are perceived as important media which children and young persons learn crime delinquent behaviours. We submit that if this theory holds some truth about learning behaviours that can either lead people to commit or not commit crime, efforts can be geared toward identifying those factors and sources as indicated above that create conducive environments for corruption and corrupt practices; and since every societal organisation consists of criminal and anti-criminal elements, the check and balance between criminal and anti-criminal elements become relevant and inevitable as determinant factors for fighting corruption in in Nigeria society.

### **Radical and Conflict Theory of Crime and Delinquency**

Yet another theory worth mentioning is the radical and conflict theorists. The radical and conflict theorists argue that the criminal laws that define certain acts as crime do not represent the consensus of society. Laws are held as instruments which the ruling class employ to protect their interests. As a result, criminal laws prohibit the behaviours of the poor and powerless that threaten the interests of the ruling class while excusing or condoning equally or even more injurious behaviours of the rulers or those who control the politics and economy of society that harm the majority of the citizens<sup>71</sup>. Conflict theorists explain crime and delinquency in terms of inequality in the distribution of socio-economic opportunities and political power. It is this inequality that is reflected in criminal laws and the actions of the criminal justice agencies and officials. Accordingly, crime and delinquency are products of socio-economic inequality and injustice as well as the political oppression that sustains them<sup>72</sup>. In this light, crime and delinquency can only be minimized with the enthronement of socio-economic justice and democracy in society<sup>73</sup>. According to Gillis ... the troubles of the children of the poor were deeply imbedded in the economic and demographic structure of society. The growing tendency to treat these as psychological and therefore as subject to clinical, rather than political or economic solution was at least as disturbing as the phenomenon itself.<sup>74</sup>

### **Control Theory**

Some theorists of control theory are of the opinion that crime and delinquency are produced by weak personal (self) or social control<sup>75</sup>. Control theorists identified social and personal dimensions of control. These theorists unconsciously assume that human beings are naturally aggressive and require control. Where control is absent or weak, the human natural impulses towards aggression and crime are released. Reiss distinguished between personal (self) control and social control. According to him personal or self-control is the "the ability of the individual to refrain from meeting needs in ways which conflict with the norms and rules of the

<sup>70</sup> This presupposes that corruption and corrupt practices may or may not arise as a result of poverty and needs to improve prevalent condition but a habit that had been learned to acquire wealth for the sake of it.

<sup>71</sup> Ibid. at p.22 See (Reiman 1984; Quinney 1970) Reiss, A.J. (1951) "Delinquency as the Failure of Personal and Social Controls" in *American Sociological Review* 16: 196-207. As referenced by Alemika & Chukwuma

<sup>72</sup> Ibid.

<sup>73</sup> Ibid (Taylor et al. 1973) as ref. by Alemika and Chukwuma

<sup>74</sup> Ibid.

<sup>75</sup> Ibid (Reiss 1951; Nye 1958; Reckless 1961; Hirschi 1969)

community". On the other hand, social control is "the ability of social groups or institutions to make norms or rules effective"<sup>76</sup>. The two levels of control are intertwined. Social control precedes personal control. When social values and norms are not adequately and properly inculcated by the family and other socializing institutions (e.g. schools, religious bodies and civil associations), individuals are more likely to develop or exhibit (personal) self-control. Nye<sup>77</sup> identified four dimensions of social control- conscience – that results from the internalisation of social norms and rules; affection shared by children and parents; parental regulation of children's choices and associations; and availability of alternate means to fulfill or accomplish goals. The presence and effectiveness of these dimensions of social control will strengthen self-control, induce compliance and reduce delinquency. Walter Reckless<sup>78</sup> attributed the incidence of crime and delinquency to weakness of containment – "the lack of well-defined limits to behaviour, the breakdown of rules, and the absence of definite rules for adolescents to play". Reckless identified "push and pull" factors in crime and delinquency. Factors such as poverty, injustices, bad companions, inconsistent moral front in society may pull individuals toward delinquency. On the other hand 'inner push factors' like weak self-concept, aggressiveness, and restlessness may push young people towards delinquency. Hirsch<sup>79</sup> on the other hand, developed his social control and bonding theory around four concepts; attachment, commitment, involvement and belief. Hirschi suggests that human natural instincts lead to delinquency and crime. Consequently, the natural motivation of human beings is to deviate. Individuals will conform to social norm and rules only if there is effective social control through social bonding to society. Social bond involves attachment, commitment, involvement and belief. Attachment to others in the society restrains individuals from deviating, as well as commitment to and involvement in conventional activities help to bond individuals to society and minimize the chances of being involved in criminal activities. The implication of the theory is that crime and delinquency are reflections of society's failure to create enabling conditions for attachment to people (i.e. family, friends) commitment to and involvement in conventional activities (schooling, employment, recreation and leisure), and belief in conventional norms, values and rules.

### 13. Integration of Legal and Social Measures for the Prevention of Corruption In Nigeria

#### Theory of Punishment

Historically, the theories of punishment were based on the notion that fearful consequences would discourage potential offenders. This was the position of the classical theorists. The classical theorists say punishment should fit crime (punishment should be proportional to crime) (Cesare Beccaria 1738) Jeremy Bentham (1748) Unitarianism Their propositions are that man has **Free Will** of choice and if man is faced with choice of pain and pleasure man will naturally opt for pleasure. Therefore, that punishment for criminal offense must be severe enough for people to be able to choose to avoid criminal act. The principle is based on Hedonism, which says, there is pain and pleasure and people generally will like to avoid pain for pleasure. Therefore, appropriate severe punishment will make people to run away from crime. To the classical theorists, law must be written in clear term devoid of any further interpretation from the judiciary. Judges are just legal instrument to impose the act of the legislature but not to vary the law to suit the individual circumstances. Therefore the law must be rigid and impartial so as to discourage people from committing crime. An example of this principle can be found in the Draconian law of Ancient Greece and the bloody Code which persisted in Renaissance England, when capital punishment was prescribed for over 200 offenses.<sup>80</sup> Similarly, certain *hudud*

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<sup>76</sup> Ibid (1951:196)

<sup>77</sup> (1958)

<sup>78</sup> (1961:341)

<sup>79</sup> (1969)

<sup>80</sup> H.S. Ardzard 'An Examination of The Concept of Punishment and Its Impact In Combatting Corruption' Journal of Public Law and Constitutional Practice (2015)vol. 6 p.1-17

offenses under Sharia hadith tradition may also incur fearful penalties. However, modern theories of the punishment are gradually replacing the punitive measures with reformatory educatory and rehabilitation of offenders.<sup>81</sup> They center on the concept of proportionality. In this respect, they differ from many previous systems of punishment, for example, England's Bloody Code, under which the penalty of theft had been the same regardless of the value of the property stolen, giving rise to the English expression 'It is as well to be hanged for a sheep or a lamb'.

Another proposition about crime and punishment was that advanced by the positivist schools. The positivist schools say, punishment should fit the criminal not the crime committed. This school advocates for the scientific treatment of individual criminals not the penalties to be imposed on convicted criminals. They argued that some physical and characteristics features, socio-economic background and the environmental factors of individual determine his or her behaviour. Therefore the doctrine of free will by classical theorists whereby maximum punishment for any crime was advocated was rejected and substituted for doctrine of determinism; where other socio-economic and environmental factors and the nature of the offence must be considered. Cesare Lombroso (1835-1909) was one of the leading figures of this school of thoughts. Subsequent development of the ideas of Beccaria made non-lethal punishment more socially acceptable. Consequently, convicted prisoners had to be re-integrated into society when their punishment is complete. Penologists have consequently evolved occupational and psychological education programmes for offenders detained in prison, and a range of community service and probation orders which entail guidance and aftercare of the offender within the community. The importance of inflicting some measure of punishment on those persons who breach the law is however maintained in order to maintain social order and to moderate public outrage which might provoke appeals for cruel vengeance. It is also noteworthy that the doctrine of Hedonism or the principle of freewill cannot and have not been able to stand the test of time as evidence in Nigeria have shown that whereby, in spite of the capital punishment advocated for and instituted in criminal law as punishment for the offence of armed robbery, had never the less reduce the incidence of robberies in Nigeria. Similarly, all the anti-corruption initiatives put in place so far for combating corruption have not been justified to be means to an end and vice versa. Therefore, to the sectors of the society that are advocating for more stringent punishment to fight corruption in Nigeria, they have to tread with caution and search beyond the legalistic approaches. It is on these premises that this paper recommends the integration of criminological/penological and legal approaches to punishment of corruption and corrupt practices in Nigeria.

#### 14. Criminology

Criminology is a sub-group of sociology, which is the scientific study of social behavior. ... Bio-criminology, the study of the biological basis of criminal behavior. It is further defined as 'the scientific study of crime, including its causes, responses by law enforcement, and methods of prevention'<sup>82</sup> Webster and Cressey define criminology as "the scientific study of crime and ... It includes within its scope the process of making laws, of breaking laws, and of .... Enforcing law"<sup>83</sup> Edwin Sutherland has offered a very comprehensive and widely acceptable definition of criminology. It is defined as

The body of knowledge regarding crime as a social phenomenon. It includes within its scope the process of making laws, of breaking laws, and of reacting toward the breaking of laws. The objective of criminology is the development of a

<sup>81</sup> By Cesare, Marquis of Beccaria "Crimes and Punishments" published 1764. As ref. in Ardard fn.105

<sup>82</sup> P. Elzeiny, 'The Study of Criminology' [www.study.com/academy/lesson/what-is-criminology-definition-history-theories.html](http://www.study.com/academy/lesson/what-is-criminology-definition-history-theories.html) accessed 15May 2016

<sup>83</sup> DR Cressey 1951, 'Criminology Research and the Definition of Crime' <https://www.jstor.org/stable/2772472> accessed 15May 2016.

body of general and verified principles and other types of knowledge regarding this process of law, crime, and treatment<sup>84</sup>

This definition captures the essence of this paper that there is need to engage in a thorough investigation of the root causes, critical examination of the existing anticorruption provisions of law (whether is adequate or not); Why are people still breaking the law despite its retributive nature (whether they are controlling, reducing or preventing the crime or not); and finally, what are the responses of the public to the crime, the criminals and the role played by the government towards tackling the crime of corruption in the country.

### What is Penology?

Penology is a branch of criminology that deals with the study of punishment in its relation to crime. It is a science which deals with the principles and methods of punishments. Penology is believed to be a sociology that deals with the theory and methods of punishment of crimes. The Characteristic Features of Penology is that Penology reflects the State policies whereby criminals are punished on a rational basis. Penologist P.K. Sen<sup>85</sup> posits that 'Penology lay down the fundamental principles that should guide the State, or the sovereign authority in framing the schemes of punishments'. Penology (from the Latin *poena*, "punishment" and the Greek suffix *-logia*, "study of") is a section of criminology that deals with the philosophy and practice of various societies in their attempts to repress criminal activities, and satisfy public opinion via an appropriate treatment regime for persons convicted of criminal offences. The study of penology therefore deals with the treatment of prisoners and the subsequent rehabilitation of convicted criminals. It also encompasses aspects of probation (rehabilitation of offenders in the community) as well as penitentiary science relating to the secure detention and retraining of offenders committed to secure institutions<sup>86</sup>. Penology concerns many topics and theories, including, prison reform, prisoner abuse, prisoners' rights, and recidivism, as well as theories of the purposes of punishment (such as deterrence, rehabilitation, retribution, and utilitarianism). Therefore, contemporary penology concerns itself mainly with criminal rehabilitation and prison management. The word seldom applies to theories and practices of punishment in less formal environments such as parenting, school and workplace correctional measures.<sup>87</sup> Penology is also defined as the study of the punishment of crime, in both its deterrent and its reformatory aspects.<sup>88</sup>

### 15. Recommendations

Based on our critical analysis of the crime-corruption and the evacuation of the legal and institutional frameworks for combating the menaces of corruption in Nigeria the following recommendation/ suggestions are proffered:

- i. Integration of Deterrence, restitution and retribution for effective control of corrupt practices in Nigerian society.
- ii. Promote political transparency, accountability, equity and fairness, which must start from sound electoral practices that would ensure the rights candidates. If there must be a way forward to drastic measures against corrupt practices civil servant must be given their prominent role. Government must restore their past glory of following due process of recruitments to get the right personnel to march the rights job. In addition, it is high time

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<sup>84</sup> Sutherland, E.H. *Principles of Criminology*, (Philadelphia: Lippincott 1947)

<sup>85</sup> P.K. Sen. [www.lawnn.com/penology/meaning-definition-characteristics/](http://www.lawnn.com/penology/meaning-definition-characteristics/) Accessed 18May2016

<sup>86</sup> Rajendra Kumar Sharma, '*Criminology and Penology*'. Atlantic Publishers & Dist. pp. 2 ff. ISBN 978-81-7156-754-6. (1 January 1998) Retrieved 15 May 2016.

<sup>87</sup> Shlomo Giora Shoham; Ori Beck and Martin Kett. *International Handbook of Penology and Criminal Justice*. CRC Press. ISBN 978-1-4200-5388-3(8 October 2007). Retrieved 15May 2016

<sup>88</sup> [www.dictionary.com/browse/penology](http://www.dictionary.com/browse/penology) visited on 5/18/16.

- government moving beyond compensating members of the political parties after winning election as if to suggest that the country belong to the ruling party.
- iii. Government to create independent employment management body to recruit technocrats that best suit the various departments rather than nominating people that have no business occupying those positions for political reasons.
  - iv. Both Federal and State Civil Service Commissions to exercise due process in hiring to reduce instances of employment based on nepotism, favouritism and politically motivated hiring that are capable of promoting corruption and corrupt practices.
  - v. Checks and balance of human rights and human criminal justice. True overhaul and thorough cleansing of the judiciary with a serious search light on the ongoing conniver between the Bar and Bench to undermine fights against corruptions and corrupt practices in the nation. Most of their tactics include the use of professional technicalities use as delay tactics not only to knock out good cases, the anti-graft agencies like EFCC and ICPC are often being frustrated in the court
  - vi. The Initiatives need to devise means of promoting effective education of the general populace to shun religious and tribal sentiments. If all I need is to woo my tribal group or people of the same faith with me or my political clans to vouch for me after stealing billions, sky is my limit
  - vii. As a long term measure, for any meaningful anticorruption initiatives, there are needs to promote basic needs and infrastructure such as; health care, shelter, powers , good road networks to divert mind of citizens to useful productivities thereby reducing corruption and corrupt practices at lower level
  - viii. Generate employment opportunities for all categories of people in the society
  - ix. Restructuring education sectors to accommodate both technical art and craft
  - x. Restructuring civil service to reduce corrupt practices of changing ages that make redundant workers to overstay unproductive thereby blocking chances of new recruitment for replacement
  - xi. Provide heavy taxation on property acquires in Nigeria such as, houses vehicular purchases and other individual possessions that do not translate to national wealth to discourage compulsory gathering and accumulation of wealth through corruption and corrupt practices in Nigeria
  - xii. Reduce the wide gap (salary-wise) between the political careerists and the civil servant salary earners in order to discourage politics as breeding ground for corrupt practices

## **16. Conclusion**

In concluding this paper, the analyses show some remarkable legal and institutional frameworks both international and national level addressing the issues of corruption in Nigeria. However, there is wide gap between the provisions and the application and enforcement. There is need to coordinate all the provisions and institutional frameworks for the management of the corruption in the country Second, from the analysis of the theories of crime causations, the penal policy and the penological punishment, there is also gap in between crime and punishment in Nigeria. This is evidence in the over-criminalisation of offences with little or no effect of the law on the criminals, either because the law is too rigid with weak enforcement or much more focus on the criminals with much less focuses on the other social, economic, political and socio-cultural practices and religious factors constituting causes of those crimes, (corruption inclusive). of as factors constituting challenges for lack of enforcement. Hence the gaps need to be bridged. These require constant legal research and studies to study the root cause of any given crime, periodical/regular review and reform of the existing provisions of law to ensure their efficacy to meet the emerging socio-economic and political issues likely to affect the law and orders and the general security and wellbeing of the citizens: the prevalent socio-economic and political situation, the socio-economic background of offenders, and all other incidental backgrounds to the crime –phenomenon in question. Hence, there is the need to integrate both legal and social measures to counter the menace of corruption in Nigeria. These integrated approaches would

serve as guides as to which type of punishment and in what proportion and which directions the punishment should follow.

Finally, we also submit based on our analyses, that government needs to intensify efforts to establish crimes research and analysis institute which would attract both legal and social scientists like criminologists, sociologists, psychologists, political scientists, Law and criminal justice experts for crime analysis to address crimes in all ramifications in Nigeria. Similarly, there is need for government to intensify effort in commissioned research in some serious crime like rape, terrorisms, corruption, robberies, human trafficking and child prostitution, and kidnapping. This can be effected by engaging expert researchers within universities in Nigeria and outside, on consultancy and or commissioned basis for the analysis of the nature, causes of crime and the punishment thereof, as well as monitoring and evaluating the effectiveness of the provisions and implementations.