

ANTI-CORRUPTION REFORMS IN NIGERIA: THE ROLE OF THE NEITI

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Introduction

Ladies and gentlemen, I have the tough assignment this morning of speaking about what today has become the single most important obstacle to economic progress and democracy in my country, Nigeria. I wish my task was to talk about Nigerian icons of music, art, literature, and science; and they do exist in abundance – in Nigeria and the Diaspora; or the vast quantities of natural resources that we have been so richly blessed with; or even the heroes of Nigeria's past who fought for its independence. Tough as my assignment may be, I believe that somewhere in studying, talking about and sharing this experience, ideas may emerge to reverse Nigeria's downward slide.

Overview: Corruption

Corruption, a global phenomenon widely defined as “the abuse of public office for private gain”, erodes public confidence in political institutions and leads to contempt for the rule of law; it distorts the allocation of resources and undermines competition in the market place; it has a devastating effect on investment, growth and development and denies citizens, especially the poor, access to vital basic services. Though many countries are successful to varying degrees in keeping corruption in check, this phenomenon continues to be a serious challenge in all countries.

Corruption comes in many guises. Bribery, extortion, fraud, trafficking, embezzlement – but also nepotism and cronyism – are all different manifestations of it. Sometimes acts of bribery involve not just money but also the exchange of gifts or advantages.

Money laundering is frequently linked to illicit drug sales, tax evasion, gambling and other criminal activity. However, illegally gained laundered money is also derived from corruption, and it is clear that corruption itself affords opportunities for proceeds of every type of crime to be moved and hidden. Identifying and recovering stolen assets is a major challenge. According to the New York Times as much as \$1trillion in criminal proceeds is laundered through banks worldwide each year with about half of that moved through American banks. In Nigeria, this can be translated into US\$ 100 Billion stolen by corrupt regimes between 1983-1998 alone!

One must question the role of banks accepting the transfer of huge amounts of money from corrupt leaders into their accounts abroad.

Corruption is not just the cases of government officials skimming off money for their own benefit. It includes cases where the systems don't work well, and ordinary people are left in a bind, needing to give bribes for services that should normally be free.

Corruption in Nigeria

Corruption in Nigeria is manifested in several forms including political corruption, bureaucratic corruption, electoral corruption, embezzlement and bribery. Political corruption, which takes place at the highest levels of political

authority affects the manner in which decisions are made, manipulates and distorts political institutions and rules of procedure. Bureaucratic corruption occurs in the public administration. Usually termed the 'low level' or 'street level' corruption, this 'corruption of need' is the type encountered daily when a business or service is obtained from the public sector through inappropriate procedure. Electoral corruption includes purchase of votes, promises of office or special favours, coercion, intimidation and interference with freedom of election. And corruption in office involves sales of legislative votes, administrative, or judicial decision, or governmental appointment. Embezzlement and bribery happens in varying degrees at all levels.

Unless the levels of corruption in Nigeria are reduced significantly, (according to Transparency International's Corruption Perceptions Index, Nigeria ranks 130, scoring 2.5) there is little hope for sustainable economical, political and social development. Corruption has already increased the gap between the rich and the poor, destabilised societies and contributed to militancy and political unrest. It has increased poverty and hampered access by the poor to public services such as education, health and justice. Basic needs in electricity and water are unmet. Even fuel for cars is often scarce in a country that is a major petroleum exporter.

While the whole country suffers the penalty for bad governance and corrupt leadership, the insurgency in the oil-rich Niger Delta region remains the best example of the cost of corruption in Nigeria, access to oil revenue being the key trigger.

The Niger Delta region is embroiled in resistance against the Nigerian State and the multinational oil companies. Decades of oil exploitation, environmental degradation and state neglect has created an impoverished, marginalized and exploited citizenry. The Niger Delta is today a region of intense hostilities, violent confrontations and criminal violence.

Persistent violence in the Delta has also led to a significant loss of petroleum exports from Nigeria. If the unknown amount of crude oil lost to theft (or bunkering) were added to the barrels legally exported, Nigeria would still be Africa's leading oil exporter with a potential capacity of three million barrels a day (bpd).

Anti-Corruption Reforms

The Nigerian government has been under tremendous pressure to adopt and implement measures to halt corrupt practices, especially criminal appropriation of public funds by top public officials.

Due to poor governance and corruption, Nigeria squandered its oil windfall of the 1970s, leading to three decades of economic stagnation and the degradation of public institutions. The latest oil boom presented a chance to Nigeria to reverse the resource curse, and for a brief period, it seemed like the country was taking a turn for the better. In April 2006, under the leadership of President Olusegun Obasanjo, and the very competent guidance of the then Finance Minister, Ngozi Okonjo-Iweala, Nigeria was able to extricate itself from a debt overhang – ironic for a country blessed with vast oil reserves.

The first administration of President Olusegun Obasanjo (1999 – 2003) focused on ensuring political stability and tackling corruption. The second (2003–07)

implemented a comprehensive economic and anti-corruption reform programme that emphasized fiscal, structural, and institutional and governance reform. The programme also sought to enhance transparency by adopting the Extractive Industries Transparency Initiative (EITI); and prosecuting corrupt officials.

To improve transparency and tackle corruption, the government adopted a two-pronged approach, embedding anticorruption measures in a comprehensive economic reform programme, and conducting analytical studies to identify specific areas in which corruption was undermining public sector performance and growth.

For example, to fight corruption, the government reviewed the public procurement process and instituted a "due process mechanism" in public contracts.

These efforts seemed to underscore Nigeria's determination to make a clean break with the past by fighting corruption and improving governance.

Nigeria has a long list of anti-corruption agencies and establishments with anti-corruption mandates, including:

Technical Unit on Governance & Anti-Corruption Reforms

The Nigeria Police

Ministry of Foreign Affairs

Federal Ministry of Justice

Economic and Financial Crimes Commission (EFCC)

Federal Inland Revenue Service

Budget Office of the Federation

Office of the Auditor General of the Federation
Bureau of Public Procurement
Independent Corrupt Practices and Other Related Offences Commission
Federal Ministry of Finance
Code of Conduct Bureau
Public Complaints Commission
Nigerian Extractive Industries Transparency Initiative
Corporate Affairs Commission
Central bank of Nigeria
Nigeria Financial Intelligence Unit
National Drug Law Enforcement Agency
National Agency for Prohibition of Traffic in Persons & Other Related Matters
The Bureau for Public Service Reforms

Inter-Agency Task Team

With such a variety of anti-corruption initiatives, it became obvious that to foster co-ordination of these agencies it would be necessary to organise a broader interagency co-ordination effort. An **interagency task team of anti-corruption agencies** was set up by the current Nigerian government, in collaboration with the United Nations Development Programme (UNDP) and United Nations Office on Drugs and Crime (UNODC), to ensure collaboration and cooperation amongst the various agencies with the mandate to fight corruption and ensure transparency and accountability in Nigeria. This team shares information, experiences, and best practices, builds capacity and aims to enhance the pursuits of their various mandates which include prosecution, investigation, research, and prevention.

International Conventions

In addition, Nigeria is signatory to several international conventions including the United Nations Convention against Corruption (UNCAC), African Union Convention on Prevention and Combating Corruption (AU Convention) and ECOWAS Protocol on the Fight against Corruption. Nigeria also works with several development partners including DFID, UNODC, UNDP, the World Bank, the European Union and several others.

Legislation

Nigeria has embarked on several legislative agenda to bridge the gaps in implementation. The Freedom of Information Bill, the Non-Conviction Based Asset Forfeiture Bill and the Anti-Terrorism Bill are pending before the National Assembly waiting for passage into law, and a working group has been set up by the Ministry of Justice to draft a Witness Protection Bill in collaboration with other relevant agencies, to ensure protection for witnesses and Whistle-Blowers.

The large number of anti-corruption agencies has resulted in a substantial increase of awareness of the problem. However, this increase in the awareness of the general public is not accompanied by adequate and visible enforcement. Despite the many policy interventions, corruption remains an endemic phenomenon in Nigeria, with anti-corruption measures failing to have noticeable effects.

Successful and sustainable anti-corruption efforts must be based on integrity, credibility and trusted by the general public. Where there is no integrity in the very system designed to detect and combat corruption, the risk of detection

and punishment to a corrupt regime will not be meaningfully increased. Curbing systemic corruption and developing and maintaining of a functioning integrity system also needs both human and financial resources exceeding by far what is currently being spent on anti-corruption efforts in most developing countries. Fighting corruption is a major, time consuming and expensive undertaking, which cannot be accomplished quickly or cheaply. There is a need for more local initiatives to empower and encourage the public to play an active role in fighting corruption.

In Hong Kong and Botswana where progress has been made, an integrated approach was selected and implemented by strong and independent anti-corruption agencies. An integrated approach has to be evidence-based non-partisan, transparent, inclusive, comprehensive and impact-oriented.

The Nigerian Extractive Industries Initiative (NEITI)

The Extractive Industries Transparency Initiative (EITI), is a voluntary initiative consisting of a set of standards to promote revenue transparency and accountability in resource-rich countries. The initiative requires companies to publish what they pay and governments to disclose revenues from oil, gas, and mining. The goal is to use revenue transparency to help tackle poverty, conflict and corruption.

EITI is a multi-stakeholder initiative involving representatives from national governments, the extractive industries, intergovernmental institutions and civil society, the first of its kind to bring together so many different stakeholders. To date, twenty-one countries, including Nigeria, have committed to implement EITI.

Nigeria was one of the first countries to adopt the EITI, approving the Nigeria Extractive Industries Transparency Initiative (NEITI) Bill in May 2007. A first set of financial, physical and process audits for the period 1999-2004 undertaken by a consortium led by the London-based Hart Group was published in 2006. The audits identified several weaknesses related to the management of oil revenues and oil and gas sector governance more broadly. The second report covering 2005 was released on 11 August 2009. This report identified unprecedented financial discrepancies, mispaid taxes, and system inefficiencies. A report covering 2006-2008 is about to be commissioned.

What makes EITI special is that it is a voluntary agreement - the actors participating in EITI want to be involved despite the fact that they have no legal obligation, in many cases, to do so. In the case of each actor, they have joined the initiative because they felt they had something to gain, whether it may be a more attractive environment for Foreign Direct Investment, a signal of good governance which can attract donor nations and institutions, or improved corporate reputation/ corporate social responsibility for business. Compliance to an initiative is always higher when it is intrinsically motivated rather than externally imposed.

The strength of EITI lies in its representation of diverse stakeholders, establishing a new model of collaboration between business, government, civil society and investors. It creates a forum for public institutions, private sector, civil society and international institutions and partners to interact. The aim is to encourage more transparency in payments and receipts related to the natural resources sector.

This multi-stakeholder structure of the EITI and its participative nature means that all stakeholders - governments, industries and civil society groups are actively involved in designing, steering, and governing the process.

Effective arrangements are required to ensure that governments and companies comply with EITI criteria throughout the four stages of implementation: sign up, preparation, disclosure and dissemination.

Any country that claims to be implementing EITI will need periodically to validate that claim. The EITI board may also ask a country to undergo validation if a lack of meaningful progress is perceived. If a lack of progress is confirmed, the country will be removed from the list of implementing countries.

EITI recognises progress in addition to absolute achievement, and it may take some countries several years to develop the structures for successful implementation. Country-specific context is also taken into consideration.

Implementing countries are required to ensure that all extractive industry companies, foreign and domestic, submit their data. One way is to encode EITI in law, as has been done in Nigeria.

There are many benefits to implementation of the Extractive Industries Transparency Initiative. Transparency in the oil sector can improve overall budget accountability and make the environment more attractive for foreign direct investment. As a sign of good governance, implementation can attract donor nations and institutions, and improve the corporate reputation of businesses.

Most importantly, as accurate information about the collection of revenue becomes available in countries implementing EITI, donors and civil society must seize the opportunity to open discussion of how that revenue is used, a question central to their successful development.

EITI VALIDATION

In accordance with the EITI Principles and Criteria, validating a country is an essential element of the global EITI process, and central to the initiative's status as an international standard. The objective of Validation is to provide an independent assessment of the progress achieved by Implementing Countries and what measures they may need to take to make better and faster progress.

There are two purposes to Validation:

- For countries that are implementing the EITI, but have not fully implemented, EITI Validation should measure progress in implementation.
- For countries that have fully implemented the EITI Validation should provide an absolute assessment of whether a country is or is not compliant with the EITI Principles and Criteria.

As noted above, there are two categories of countries:

Candidate countries are those who have signed up to implement the EITI and met all necessary indicators. These include: committing to implement the EITI; committing to work with civil society and the private sector; appointing an individual to lead implementation; and producing a Work Plan that has been agreed with stakeholders.

Compliant countries have fully implemented the EITI. They have met all the indicators in the Validation Grid, including the publication and distribution of an EITI Report.

The first step is the appointment of a Validator by the multi-stakeholder group.

The selected Validator then uses a set of key documents to support their work after which the Validator meets with the multi-stakeholder group, the organisation contracted to reconcile the figures disclosed by companies, the government and other key stakeholders (including companies and civil society not in the multi-stakeholder group).

Using this information, the Validator completes a main Report, comprising of the various reports collated and an overall assessment of the implementation of the EITI.

This Report goes initially to the multi-stakeholder group, the government, and the EITI Board. If these groups are content with the Validation Report, it is published and conclusions and suggestions are acted upon.

Validation is not a financial audit but a confirmation that countries and companies are doing what they say they are doing.

Civil Society Organisations

The involvement of civil society in the EITI process is critical, as the information provided about revenue-flow is of little worth without someone to use it. The provision of this information is the first and necessary condition to improve the quality of life of those living in poverty amid tremendous natural resources. Once armed with the information of how much money the government is receiving from oil revenues, citizens can increase the accountability of

government and monitor how the money is spent. This creates the right conditions for sustainable growth.

Active involvement and scrutiny from civil society is very key to EITI implementation and giving civil society groups the skills and knowledge to take part in EITI is a very crucial part of the Initiative.

While it is NEITI's responsibility to increase the capacity of all stakeholders to access, understand and participate in the exchange of ideas on extractive industry accountability, CSOs are charged with monitoring and reporting on the activities of the initiative; carrying out advocacy on the initiative to the legislature, the executive and relevant government agencies; carrying out constructive criticism on NEITI implementation and offering the way forward; carrying out shadow report on some of the NEITI activities; and engage in research to bring out facts and figures on NEITI implementation in Nigeria. Others are to raise advocacy issues around the NEITI implementation process, to advocate for adequate funding of NEITI Secretariat, to strengthen the oversight function of the legislators on the NEITI process and to promote effective CSOs engagement in the NEITI process.

How Does Civil Society Benefit from EITI

- Increased availability of information in the public domain about revenues that governments manage on behalf of citizens;
- Increased ability to hold governments accountable;
- Improved governance, hopefully contributing to sustainable development and poverty reduction;
- Strengthened relations with companies and governments; and

- Reputational benefits - increased profile and influence on a wider audience.

Media

Communicating audit findings is a major component of the EITI process, opening channels for civil society concerns, popular participation, and consultations resulting in a better informed public and improved oversight for transparency and accountability.

Beyond creating awareness and creating an educated perception of the complexities of the extractive sector, effective communication is crucial to defining and managing the perceptions of different stakeholders throughout the EITI process. It addresses misunderstandings about how the extractive industries – and the revenue system associated with them – actually function, or should function. Improving the domestic and international perception of how well a country's resources are managed and how the revenue generated is being used to help develop the country can in turn improve a country's investment climate.

It is vital therefore for media practitioners to work closely with other professionals - accountants, engineers and lawyers in order to understand the intricacies of the extractive industry in order to give accurate reports.

The inclusion of a broad based group of stakeholders in the process results in good awareness raising efforts by the media and outreach to victims of corruption by Civil Society.

Diverse professional groups - lawyers, accountants, engineers and others – who play an important gate-keeping role, can also come together in forums to exchange information, broaden participation and create a monitoring process to effectively participate in and promote EITI implementation.

The NEITI progress is a very tiny but good step forward and my belief is that many more such steps by government and other initiatives would help us reach a tipping point in the fight against corruption in Nigeria. When government is able to allow revenues of all sectors to be monitored and publicised, when motivation for corruption and misappropriation of revenues are reduced, when the citizenry is able to see how earnings from their natural resources are being utilized, when these resources start translating to good schools, hospitals, roads and food, then a profound shift would have been achieved.

NEITI is also building on its successes in the oil and gas sector to include solid mined minerals.

After the publication of the 2005 Audits, NEITI conducted roadshows in 12 states representing 2 geopolitical zones – the south-south and the south-east, which also represent the Niger-Delta region. These roadshows presented the audits and created avenues for dialogue.

Violence in the Delta deprives Nigeria of the full value of its potential earnings from oil and gas exports; however, an arguably greater threat to Nigerian stability, and thus its economic prospects, is the uncertainty connected with one of the most fundamental infrastructures of democracy, namely, a fair,

violence-free, and efficient electoral system. There is a need to bridge the gap between popular aspirations for a democratic, secure, prosperous, and equitable Nigeria and the political and institutional dynamics in play. An election that is not free and fair can only produce corrupt leadership. This makes the coming elections in Nigeria very crucial in the fight against corruption and ultimately crucial to the future of the country. For Nigeria to break out of its decades of weak economic performance and deepening poverty, leaders must emerge in all sectors determined to have a transformative impact. A politically stable, economically dynamic, and socially peaceful Nigeria is a daunting project and the ability to shift norms from acceptance of corruption is a huge task that requires a high degree of political commitment on the part of the leadership.

The problem in the Niger Delta can only be solved by national and state leaders who care about the plight of the people and are willing and committed to do something about it.

The constitution, laws and institutions that define Nigeria's government must be made to perform - there must be a cohesive federal administration that is in accordance with Nigeria's statutes, headed by a physically capable president; a truly independent electoral commission able to conduct honest elections; and domestic and international consultations on credible policies must be encouraged to address the country's deficient infrastructure and institutions.

Nigeria needs a strong national governance structure based on accountability and transparency and a strong commitment to fight corruption. This is

manifested by the top leadership driving the translation of policy into action, walking the talk and pushing for results.

Change is inevitable in Nigeria. For the sake of the overwhelming majority of Nigerians, at home and abroad, who are honest and upstanding individuals, whose right it is to enjoy the benefits of the natural resources they have been blessed with, and for the sake of our children who need to have a clear identity – a country to call theirs.

It may take a decade to affect the needed transformation of Nigeria but change is inevitable, and possible. The attempts in Edo State and the progress being achieved in Lagos State in the quality of governance, improvements in public services and the broadening of the government's tax revenue base, is proof that change is possible. Effective and transparent government; the provision of public goods of transport, health, education, water, electricity, physical security and others, and a fair and equitable tax system is achievable. Also the success achieved by Governor Donald Duke in turning Cross River State into a tourism destination during his tenure attests to the fact that hurdles to developmental governance are not insurmountable.

Other potential change agents can be found in all walks of life in Nigeria and in its extensive Diaspora, and they belong to all age groups, ethnicities, religions, and professions.

We, Nigerians and the global community, must bind together and take the necessary steps to build a country of which Nigerians can be proud. In Nigeria and overseas, we can rally around a core agenda of strengthening

constitutional and democratic governance, ensuring honest and credible elections, and using mass communication technologies to expose and reduce corruption. We can establish public-private partnerships to encourage the investments needed to effect an economic transformation comparable to what was achieved in Asia during the past four decades. And Nigeria's deficiencies in security, energy, roads, railroad, health, education, food, water and sanitation can be drastically reduced in partnership with international agencies and industrialized nations.

It is also possible to tackle developmental governance in Nigeria in 'bite-size' scales - making those transformations in the many public, semi-public, and private entities in which we operate. For instance, politically independent groups of Nigerians can conduct forums in which party politicians are brought together to agree on mechanisms to halt the recourse to fraud and violence in elections. Transformative processes in individuals, groups and organizations can inspire others and eventually catalyze far-reaching changes throughout the Nigerian economy, society and political system.

Several Asian countries have dramatically reversed course, and adopted policies and practices that led to the creation of internationally competitive industries and the lifting of hundreds of millions of their citizens out of poverty. In each case, the process was sparked by the determination of particular individuals in government, business, and academia to seek a better path. They stuck to it until their actions ignited waves of transformation across their societies. With the help of the global community, Nigeria can emerge from the labyrinth of corruption and pervasive poverty.

Nigeria possesses abundant assets - human resources, capital wealth, vast but under-exploited gas reserves, untapped potential in agriculture, manufacturing, and solid minerals. It also has a robust civil society and corporate community, and resilient democratic institutions that are more than adequate to meet the challenges, with global partnership.

This has been a wonderful privilege and I thank the Oxford Hub for inviting me to speak at this conference.