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## Article

# Administration, accountability and transparency in public sector organisations : a conceptual overview

Accounting and taxation review

## Provided in Cooperation with:

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*Reference:* Kankpang, Alphonsus Kechi/Nkiri, Joseph Eyam (2019). Administration, accountability and transparency in public sector organisations : a conceptual overview. In: Accounting and taxation review 3 (4), S. 1 - 14.

This Version is available at:

<http://hdl.handle.net/11159/4443>

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Mitglied der

*Leibniz*  
Leibniz-Gemeinschaft

ISSN: 2635-2966 (Print), ISSN: 2635-2958 (Online).

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University of Benin, Benin City, Nigeria.

Available online at <http://www.atreview.org>

Original Research Article

## **Administration, Accountability and Transparency in Public Sector Organisations: A Conceptual Overview**

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Received: 09/09/2019

Accepted: 21/12/2019

### **Abstract**

*Administration of the public service in Nigeria is a thoughtful manifestation of the nation's socio-political setting. This study examined the administration, accountability and transparency processes in Nigerian public sector organisations. The overriding purpose of the study was to identify the key structures as well as strategies adapted in the administration of accountability and transparency processes in public sector organisations in Nigeria. A conceptual review was adopted in exploring the entire gamut of administrative procedures in Nigerian public sector organisations and how these processes have been affected by the principle of accountability and transparency. The politicisation of the top hierarchy of the Civil Service; Lack of financial responsibility; Perpetual breakdown of discipline; Institutionalization of corruption at all levels and segments of the Public Service; Disregard for rules and regulations; Loss of direction; General decline of efficiency and effectiveness.*

**Keywords:** Administration, accountability, transparency, corruption, public sector

### **JEL Classification Codes:**

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**Citation:** Kankpang, A.K & Nkiri, J.E (2019). Administration, accountability and transparency in public sector organisations. *Accounting and Taxation Review*, 3(4), 1 – 14.

### **1.0 Administration in the Public Service in Nigeria**

Administration of the public service in Nigeria is a thoughtful manifestation of the nation's socio-political setting. This context over the years has had so be run enthusiastic effects as well as undesirable consequences

for the performance of the public administration in the country, thereby resulting in series of unprofessional conducts that have hindered efficiency and effectiveness. This is irrespective of the existence of basic constitutional provisions such as the Fifth Schedule of the

Constitution (1999) which stipulates the code of conduct for public officers in the country. Article 15 of the fifth schedule of the constitution (1999) also made provisions for a 'Code of conduct Bureau and Act' with emphasis on maintaining transparency in government business. Besides, the civil service handbook (1997) enumerates the roles of the civil servant and how government business should be conducted to address the needs of the people and also contains 'codes of ethics in government businesses with emphases on the values of uprightness, discipline, equity etc. Some reforms in public administration such as Dotun Phillips Study Group on the Review of the structure of the civil service (1985), Presidential Task Force on Civil Service Reforms (1985), Civil service Reform through decree no 43 (1988), and Allison Ayida Committee (1994) had the objective of addressing series of challenges like performance, professionalism and remunerations in the public service. In line with the United Nations Department of Economic and Social Affairs (2001: 66) which 'recommendations of the reforms were directed at achieving a results-oriented civil service, imbued with ethical values'. The adoption of International Code of Conduct for Public Officials in 1996 (OECD 2000: 47-49), African Charter on public service (2001) and the African Charter on values and principles of public administration (2011) also conform to the present public administration reforms agenda aimed at professionalizing public administration in the country (Ayida, 1994; Olum, 2004).

These frameworks have not provided a reasonable universal remedy in addressing the challenges of professionalism, incompetence, lack of industry, accountability and transparency and most often the general insensitivity to service delivery issues that confront public administration in the country. At

the centerline of these unprofessional dispositions is the dysfunctional political process with over-arching influence on public administration (OECD 2001:65; Adegoroye 2005:2; Gundu 2011:147).

The impact is the monumental unethical crisis which has over the years resulted in the compromise of basic principles and values and the neglect of professional and ethical standards thereby, undermining the very essence of its existence in terms of providing efficient, responsible and professional service in line with sustainable public interests.

## **2.0 Policy and Regulatory Frameworks for Public Administration in Nigeria**

To ensure effectiveness and efficiency in the Nigerian public administration, the following policy and regulatory frameworks have been developed: The fifth schedule of the 1999 Federal Constitution of Nigeria generally makes provision as regards code of conduct and work ethics for the public servant. Sections 1 to 10 of the schedule contain codes to guide the conduct of public officials with an emphasis on how to avoid conflict of interests. It further provided for the existence of a 'Code of conduct' tribunal with the responsibility of prosecuting erring or non-compliant public servants. Areas covered by provisions of the section of the constitution to ensure that public office holders are of ethical conduct and sustain bureaucratic ethics include conflict of interest in the discharge of ones' duties; receiving double remuneration by public officers; restriction on carrying on full-time private businesses and bar from obtaining bribes and gratifications. Others are engagement in acts that are detrimental to the rights of any person; prevention from being members of any association that is incompatible to the functions and dignity of public office and adherence to the demand for the declaration of assets and liabilities

on assumption of office as a public office holder.

## **2.1 Reflections on Public Administration in Nigeria**

An interrogation of public administration practices in Nigeria indicates several forms of misconducts that are unacceptable. The prevalence of bribery and corruption in the police force incidence of police, examination leakages for monetary or other gratification in our universities, miscarriage of justice, health professional diverting medical supplies, public officer engaging in over-invoicing or inflation of contracts, superior demanding sex from a subordinate to earn promotion etc. These unethical practices cut across the entire breadth of the nation's public administration. All the above misconducts can be described as fraud, embezzlement, robbery, bribery, extortion, nepotism, influence peddling, indiscipline, mal-practices and betrayal of public confidence. Accordingly, some of the major ills of the public service in Nigeria that must be treated to put the nation on the developmental track as well as greatness include Politicisation of the top hierarchy of the Civil Service; Lack of financial accountability; Perpetual breakdown of discipline; Institutionalization of corruption at all levels and segments of the Public Service; Disregard for rules and regulations; Loss of direction; General decline of efficiency and effectiveness. The challenges facing the effectiveness and efficiency of the public administration professionalism in Nigeria include unethical behaviours, corruption, unprofessional politics, poor working conditions and unwillingness to disclose misconducts. In trying to address the above challenges of administration in the Nigerian public sector, some key issues must be effectively addressed to achieve professionalism, effectiveness and efficiency and these issues in accountability and transparency. When the term "accountability" is used, it is usually used to several additional separate concepts such as transparency, equity, democracy, efficiency,

responsiveness, responsibility, and integrity (Mulgan 2000; Behn 2001; Dubnick 2002). The term has come to stand as a general term for any mechanism that makes powerful institutions responsive to their particular publics (Mulgan, 2003). Akindele and Adeyemi (2011) identified accountability as a concept that has been severally defined and classified; it has been conceptualized as a way of being answerable or liable for one's actions and/or inactions and, conduct in office or position. It has equally been defined as the process of making elected officials and other office holders accountable and responsible to the people who elected or appointed them for their actions while in office. They further opined that accountability connotes the state or quality of being liable and required by a specified person or group of people to report and justify their actions in relations to specific matters or assigned duties. Adegbite (2010) defined accountability as the obligation to express that work has been conducted in accordance with agreed rules and standards and the officer reports fairly and accurately on performance results vis-à-vis mandated roles and plans. It means doing things transparently in line with due process and the provision of feedback. Many social relationships carry an element of accountability within. Accountability is all about being answerable to those who have invested their trust, faith, and resources to you. Johnson (2004) posits that public accountability is an essential component for the functioning of our political system, as accountability means that those who are charged with drafting and/or carrying out policy should be obliged to give an explanation of their actions to their electorate. Premchand (1999) observed that the capacity to achieve full accountability has been and continues to be inadequate, partly because of the design of accountability itself and partly because of the widening range of objectives and associated expectations attached to accountability. He further argues that if accountability is to be achieved in full,

including its constructive aspects, then it must be designed with care. The objective of accountability should go beyond the naming and shaming of officials, or the pursuit of sleaze, to a search for durable improvements in economics management to reduce the incidence of institutional recidivism.

In general, transparency implies openness, communication and accountability. With regard to the public services, it means that holders of public office should be as open as possible about all the decisions and actions they take, they should give reasons for their decisions and restrict information only when the wider public interest demands it (Chapman, 2000). Radical transparency in management demands that all decision making should be carried out publicly. All draft documents, all arguments for and against a proposal, the decision about the decision making process itself, and all final decisions, are made publicly and remain publicly archived. Richard (2004), in his book "What is Transparency?" transparency has come to mean active disclosure. Other scholars have defined government transparency as the publicising of incumbent policy choices, and the availability and increased flow to the public of timely, comprehensive, relevant, high-quality and reliable information concerning government activities. Transparency has been generally supposed to make institutions and their office-holders trusted and trustworthy (O'Neill, 2002).

Transparency International (2015) defines transparency as shedding light on rules, plans, processes and actions. It is knowing why, how, what and how much. Transparency ensures that public officials, civil servants, managers, board members and business men act visibly and understandably and report on their activities, this therefore imply that the general public can hold them accountable. Transparency is one of the surest ways to guard against corruption.

Adegite (2010) also noted that there are three pillars of accountability, which the United Nations Development Programme (UNDP) tagged ATI (*Accountability, Transparency and Integrity*). Accountability can further be segmented into; *Financial Accountability, Administrative Accountability, Political Accountability and Social Accountability*. Financial Accountability is concerned with the establishment of the pattern of control over receipt and expenditure of public funds to ensure that public monies have been used for public purposes. Administrative Accountability entails a sound system of internal control, which complements and ensures proper checks and balances supplied by constitutional government and an engaged citizenry, these include ethical codes, criminal penalties and administrative reviews. Political Accountability fundamentally begins with free, fair and transparent elections where the people decide whether to retain or throw out the incumbent office holders or political executives by refusing to vote for such incumbent based on his/her performance while in office (Ola & Effiong, 1999). Social accountability refers to the wide range of citizen actions to hold the State to account for its actions by exercising their inherent rights, and to hold governments accountable for the use of public funds and how they exercise authority (Pradhan, 2010).

Integrity is one of the most controversial concepts among virtue terms. It is also perhaps the most puzzling as there is no generally accepted definition for it. The concept of integrity has to do with perceived consistency of actions, values, methods, measures, principles, expectations and outcome. When used as a virtue term, "integrity" refers to a quality of a person's character (Ssonko, 2010). Some people see integrity as the quality of having a sense of honesty and truthfulness in regard to the motivations for one's actions. Persons of integrity do not just act consistently with

their endorsements, they stand for something; they stand up for their best judgment within a community of people trying to discover what in life is worth doing (Ssonko, 2010). Some commentators stress the idea of integrity as personal honesty: acting according to one's beliefs and values at all times. Speaking about integrity can emphasize the "wholeness" or "intactness" of a moral stance or attitude. Some of the wholeness may also emphasize commitment and authenticity.

In the context of accountability, integrity serves as a measure of willingness to adjust value system to maintain or improve its consistency when an expected result appears incongruent with observed outcome. Some regard integrity as a virtue in that they see accountability and moral responsibility as necessary tools for maintaining such consistency. Halfon (1989) offers a different way of defining integrity in terms of moral purpose. Halfon describes integrity in terms of a person's dedication to the pursuit of a moral life and their intellectual responsibility in seeking to understand the demands of such life. He asserted that persons of integrity embrace a moral point of view that urges them to be conceptually clear, logically consistent, appraised of relevant empirical evidence, and careful about acknowledging as well as weighing relevant moral considerations. Persons of integrity impose these restrictions on themselves since they are concerned, not simply with taking any moral position, but with pursuing a commitment to do what is best.

Some other authors have also explained integrity in terms of; (i) integrity as the integration of self; (ii) integrity as maintenance of identity; (iii) integrity as standing for something; (iv) integrity as moral purpose; and (v) integrity as a virtue. More so, others would say that integrity is public service with honor. Still others would associate integrity with moral character. Carter (1996) states that integrity requires

three steps which includes; discerning what is right and what is wrong, acting on what you have discerned, even at personal cost and saying openly that you are acting on your understanding of right from wrong. For the purpose of this study we define integrity as doing the right thing even if no one is looking, or even if others are not doing the right thing.

Transparency and Accountability entail amongst others: The conduct of government affairs within formulated guidelines must be subject to the people's verification and scrutiny; Public officers must carry out their duties within the purviews of their powers as specified in the relevant codes; All government financial transactions including budgets and expenditures should comprehensively spell out in relevant documents after undertaking due consultations with relevant stakeholders; and Openness of government activities and the people's unhindered access to information about such activities.

### ***2.2.1 Fundamental Threats to Accountability***

There are three fundamental threats to the construction of good governance and the rule of law in the developing world, namely corruption, clientelism, and capture. These phenomena refer to the use of public office for private gain and their impact goes far beyond the simple diversion of funds. Corruption, in addition to directly enriching individual bureaucrats, distorts markets and hampers service delivery (Rose-Ackerman, 1999). Clientelism is the unfairly channeling of public resources to specific client groups which alters the dynamics of political competition and leads to the ineffective provision of public services (Fox, 1994) and Capture, in addition to providing rents to specific economic actors, also greatly alters markets and worsens the position of consumers, workers, and the environment in relation to corporations (Stigler, 1971). It is generally accepted that the best way to combat this three-headed monster and

thereby guarantee the public interest character of the state is by strengthening accountability.

### **2.2.2 Corruption**

The concept of corruption has continued to be masked by value preference and differences (Akindele&Adeyemi, 2011). This has to some extent complicated the attainment of a definitional uniformity on the concept within the academia and practicing world of administration. Corruption, according to Harsh (1993, as cited in Heywood, 1997), is a practical problem involving the outright theft, embezzlement of funds or other appropriation of state property, nepotism, and granting of favors to personal acquaintance. It has been argued that corruption involves behaviors which deviate from the moral and constitutional requirements. Otite (1986) in his own explanation sees corruption as perversion of integrity or state of affair through bribery, favour or moral depravity. It involves the injection of additional but improper transaction aimed at changing the normal course of events and altering judgments and positions of trust. It consists in doers and receivers' use of informal, extra-legal or illegal act to facilitate matter.

Gboyega as cited in Olasupo (2009) opines that corruption involves the giving and taking of bribe, or illegal acquisition of wealth using the resources, of a public office, including the exercise of discretion. In this regard, it is those who have business to do with government who are compelled somehow to provide inducement to public officials to make them do what they had to do or grant undeserved favour. It is therefore defined as officials taking advantage of their offices to acquire wealth or other personal benefit. Odey (2002) contextualizes corruption in Nigeria as the air which every living person breathes in and out. According to him, nobody makes any effort to breathe in the air; it comes naturally. Corruption has indeed eaten deep

into the fabric of Nigeria, with every arm of government having its fair share.

### **2.3 Recent Developments in ensuring Accountability in Nigeria Public Expenditure**

Following the failure of accounting infrastructure and the oversight bodies (The Auditor-General and the PAC) to address the issues of public expenditure management in Nigeria, and eliminate the current financial indiscipline, the government led by OlusegunObasanjo (1999-2007) decided to put in place some mechanisms and agencies to ensure accountability in public expenditure which is fundamental to the survival of democratic process in Nigeria.

These mechanism and agencies include: (a) Due Process Mechanism and Transparency: in an attempt to stop the business as usual syndrome in government activities, achieve cost economy and transparency through Budget Monitoring and Price Intelligence Unit (BMPIU). (b) Economic and Financial Crimes Commission (EFCC): During President Ibrahim Babangida's regime, local and international financial and economic crimes rose to an unprecedented height in Nigeria due to no formidable mechanism and institution for punishing offenders. EFCC was established to combat financial and economic crimes as stated Act (c) Independent Corrupt Practices and Other Related Offences Commission (ICPC): This commission has a major role of reviewing and modifying the activities of public bodies and institutions with the aim of identifying and eliminating those practices which have the potential to aid corruption. It also has the mandate to educate and enlighten the public about the undesirable consequences of all forms of corrupt practices in private and public life. (d) Code of Conduct Bureau (CCB):Charged with the duty of recording the details of assets and liabilities declared by government or political officeholder occupying key positions using the appropriate "Assets Declaration Form" at

the point of entry into the office. The CCB records and keeps detailed information about officers' wealth as appropriate with the aim of checking corruption.

### ***2.3.1 Accountability and Economic Backwardness***

World Bank (1994) stated that infrastructure is an umbrella term for many activities referred to as "social overhead capital of which its adequacy and reliable presence in any economy leads to raise in productivity at low cost, increase the country's GDP and good standard of living which is the basis of economic growth and development (Foster & Pushak (2011). In most developing countries, government are responsible for infrastructural service provisions and budget is the instrument upon which government plans, review and control public expenditure enable actual activities stays within the established boundaries (Searfoss & Monozka 1973). Lack of accountability gave birth to corruption, clientelism and capture (e.g. the \$15b dollars power project during President Obasanjo's regime, the Oil windfall of \$12b dollars during President Babamgida's regime, Lagos – Benin road contract, the World Bank waters project in which billion of Naira contracts were awarded, also the =N=3 trillion petroleum subsidy scam in which all stakeholders are unable to account for). However, due to fiscal accountability failure, the above issues were not resolved and have resulted in infrastructure decay, high cost of production, and high interest rate, business relocation to other countries, business failure, massive poverty and poor standard of living. All these are signs of economic retrogression.

### ***2.3.2 State of Accounting Infrastructure in the Nigerian Context***

The state of accounting infrastructure in Nigeria has been observed to be weak by the World Bank. In its report on the Observance of Standards and Codes (ROSC) on Nigeria issued in 2004, the World Bank observes that accounting and auditing practices in Nigeria suffer from institutional weaknesses

in regulation, compliance and enforcement of standards and rules. The specific areas noted in the report include: incomplete budget information, unreliable accounting system, incomplete data to support proper public financial management, obsolete and inadequate legal framework for accounting and auditing, ineffective internal audit system, ineffective supreme audit institutions, non-compliance with international public sector accounting standards (IPSASs) and other information presentation standards. The following has been identified as the problems that need urgent solution:

#### ***2.3.2.1 Professional Base of Accountants in Nigeria:***

The United Nations in one of its observations underscored the need for quality and availability of accounting personnel in government financial management in developing countries. It was observed that there is a "correlation between financial management in developing countries and the level of economic development" (United Nations, 1991). When non-qualified personnel are in charge of accounting functions and positions, the effect would certainly be "Accountability Blindness" This assertion draws attention to the need for a sound professional base of accountants as a pre-condition for achieving accountability in developing countries. In Nigeria, there are three main professionally recognized accounting bodies namely: The Institute of Chartered Accountants of Nigeria (ICAN); Association of National Accountants of Nigeria (ANAN); And the more recent, the Chartered Institute of Management Accountants of Nigeria (CIMAN). ICAN is the first, more recognized and better established of the three, having been in existence since 1965. It has approximately 32,722 professional members as at May 2011 from a modest beginning of 250, most of whom holds management positions especially in the private sector of the economy. As at now only 20 percent are serving in the public sector.



This, by implication, means the public sector is left to be driven by less qualified and incompetent accounting personnel. ANAN has produced approximately 13,717. Both bodies have produced approximately 46,440 Professional Accountants to serve a population of 168 million Nigerians and over 700,000 registered companies, excluding government agencies (CIA Fact book 2011). The implication of this, mean that Nigeria has "a ratio of one professionally qualified accountant to three thousand, six hundred and eighteen persons (1:3,618). This seems ridiculous in comparison with other countries such as Australia with a ratio of one professionally qualified accountant to one hundred and eighty one persons (1:181) (Emenyonu, 2011). Similarly, Olowo-Okere (2005) stated that in Nigerian public sector, many government accountants neither have accounting education nor certification and the consequence is lack of professional accountants to take charge of important and sensitive accounting positions in the public service. Our situation cannot aid accountability in any form. Everett et al. (2007), not only must better record-keeping systems be established in poor countries if corruption is to be addressed, but these systems must also be more contextually appropriate.

**2.3.2.2 Oversight Bodies:** Aruwa (2001) the shortcomings arising from the state of the accounting infrastructure in Nigeria is also evident in the antiquated, fragmented, incomplete and unreliable nature of the accounting system providing motivation for the existence of oversight bodies. The prominent ones are the auditor-general and the public accounts committee. Section 85 (1) of the 1999 constitution of the Federal Republic of Nigeria provides for the office of the Auditor-General of the Federation (AG) in order to ensure accountability in public expenditure at every levels of government and operations. The constitution empowers the auditor-general

to audit and report on the public accounts of the federation (all offices and courts) to members of the legislature as promptly and as accurately as possible to enable them ascertain how the programmes, functions and activities of the government are being conducted. However, the AGP has been constrained in the discharge of his responsibilities. Okaro (2004) "one problem which the auditor-general had to contend with these years is the issue of the late submission of the annual financial statements by the Accountant-General. Even though the 1999 constitution stipulates that the financial statements should be submitted by the AGF to the Auditor-General within 7 months after the end of the financial year, this provision has been grossly violated due mainly to poor quality accounting system and personnel (Oshisami, 1992). Emenyonu, (2007) recently some of the audit findings includes: Over-invoicing, non -retirement of cash advances, lack of internal audit inspection, payment for jobs not done, double-debiting, contract inflation, lack of supporting documents to back up various purchases, shameless violation of financial regulations, and release of money without the approving authority's involvement. All these disclosure are contained in the report but without appropriate punishment to offenders. These unprofessional practices are against accountability and showed the existence of weak accounting infrastructure in Nigeria.

**2.3.2.3 Legal Framework for Supporting Accounting Practice:** There is a plethora of laws and regulations that provide a legal basis for accounting and financial management in Nigeria's public sector. These include: 1999 Constitution of FRN, Finance (Control and Management) Act, 1990 (as amended), Financial regulations, Audit Act of 1956 (as amended) and in addition, the Annual appropriation Act authorizing and controls receipts and payments of public funds. It is therefore obvious that Nigeria does not lack the required legal backing for her financial

transactions. However, Okaro (2004) observes that if there is inefficiency in the management of public funds in Nigeria, it is certainly not for "want of enough legal instruments for the regulation but poor culture of financial management as seen in the outdated nature of the financial rules and regulations in force in the country. The assertion above is evident in expressions which suggest that our laws suffer from severe weaknesses in enforcement, compliance and regulation. The weaknesses have been noted by the World Bank (2004) which observes that "the process of adjudicating on cases in Nigeria courts is so slow that regulators are discouraged from seeking support from the courts and law enforcement agencies in enforcing sanctions". This situation which aided the level of corruptions, can be attributed to the in the country weak infrastructure.

**2.3.2.4 The Public Accounts Committee (PAC):** The public accounts committee (PAC) is a committee of the legislature charged with responsibility of examining the public accounts on the basis of the observations raised in the Auditor-General's report and ensures that all issues highlighted therein are properly addressed. It therefore acts as a mediator between the Accountant-General and the Auditor-General. Ogbanu (1999) the PAC can enhance "judiciousness in the disbursement of public funds by the public servants thereby resulting in financial savings which can be channeled to the provision of amenities to improve the standard of living of the citizens but have not been able to discharge its duties as expected. Many studies have identified a number of reasons for PAC non-performance and they are associated with accounting infrastructure. Oshisami (1992), Ogbanu (1999), Obazele (2000), Okaro (2004) agree that the following are the major reasons for the poor performance of the PAC: (i) Absence of personnel with required skills, knowledge and experience in financial matters as there is no established laws and guidelines on appointment of

members. (ii) Lateness on the part of PAC to finalize its report on findings of the Auditor- General. (iii) Inability of some ministries and departments to respond to audit queries due to a total breakdown of the system of accountability and internal control measures in the public sector (Randle, 2003).

## **2.4 The Link between Governance and Economic Performance**

Several studies have established strong link between good governance (administration) and economic performance and pace of development. In a particular study by Lederman (2000), it was found from a study which explains corruption as a function of political governance that corruption is reduced by establishing a political system which increases the quality of bureaucracy. The study also found public spending on health becomes more effective in lowering child and infant mortalities as well as expenditure on education.

Kaufmann and Kraay (2002) in another work advanced a two-way estimation of the relationship between the quality of governance and per capital income. The work covered between 14 and 192 countries using six governance indicators which include voice and accountability, stability, governance effectiveness, regulatory quality, rule of law and control of corruption. Accordingly, voice and accountability measures the ability of citizens to participate in selecting governments stability measures the continuity of polity and ability of the electorates to elect and replace those in power. Governance effectiveness on its part indicates the ability of government to initiate and implement good policies; regulatory quality measures the perceptions of the people regarding excessive regulations; rule of law is a measure of the occurrence of criminal acts, contract enforceability and the performance of the judiciary while corruption control measures the corruption perception of the people.

The finding, of the above study is that governance has strong effect on the income per capital of a country, sampling 153 countries. On the other hand, they found that attempt to estimate effect of increase per capital on governance yielded a negative effect meaning that economic growth is not likely to bring about improvement in governance.

## **2.5 Nigeria performance using the governance indicators.**

Drawing from the data set published by KanfmannKraay and Mastruzzi (2003) Nigeria was compared with 12 other African countries for their governance characteristics using the six indicators earlier discussed in the study by Kaufmann and Kraay. The following findings emerged from the study.

i) For voice and accountability, Nigeria trails behind most African countries and only tops a country like Zimbabwe. This shows Nigerian citizens' low participation in the selection of governments using the indices of the political process, civil liberties, political rights and independence of the media. (ii) Political stability: Nigeria is in the lowest position given a perception that the country could be overthrown. (iii) Government effectiveness Nigeria scored low in quality of public service provision, bureaucracy, competence of the civil service, independence of the civil service and the government's commitment to its policies behind countries like Botswana, Mauritius and South Africa. (iv) On regulatory quality (in the foreign trade) price controls or inadequate banking supervision. Nigeria trails behind Tunisia pointing to the fact that poor quality is associated with Nigeria. (v) For Rule of law, Nigeria has not fared well in crime, contract enforceability and the effectiveness and predictability of the judiciary. (vi) In terms of corruption, Nigeria is perceived as having the test control over corruption of the countries sampled. Frequent extra-legal

payments, corruption in the political sphere and "state capture" by elites are seen as regular features of the Nigerian environment by respondents. The overall picture thus presented of Nigeria is of a country that lacks effective governance mechanisms and the necessary guideline, principles, rules and structures for assuring compliance, monitoring of performance and development.

The resultant disenchantment, heightened corruption, disregard for due process for public expenditure and poor enforcement of contractual obligations and terms, little or no accountability and transparency in the conduct of public affairs. The administration started on a promising note with the establishment of some legal institutions namely the Independence Corrupt Practices and Other Related Offences (ICPC) in 2000 and the Economic and Financial Crimes Commission (EFCC) in 2002 as part of the legal framework to control the ills of corruption and financial crimes in the country.

### **Specifically, the ICPC has among its functions;**

(i) Where reasonable grounds exist for suspecting that any person has conspired to commit, has attempted to commit, or has committed an offence under this act or any other law prohibiting corruption, to receive and investigate any report of the conspiracy to commit, attempts to commit or the commission of such offence and, in appropriate cases, to prosecute offenders.

(ii) To educate the public against bribery, corruption and related offences, and to enlist and foster public support in combating corruption (ICPC Act 2000, 15-16).

### **The EFCC'S functions include:**

i) to investigate all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal change transfers, future market fraud, contract scam. (ii) To co-ordinate and enforce all

economic and financial crimes laws and enforcement functions conferred on any other person.

The ICPC and the EFCC are by no means the first anti-graft institutions or bodies put in place by Nigeria to fight corruption but given the perceived seriousness on the part of the government that established them, Nigerians had hoped that these institutions would at last provide the seeming elusive panacea for the ills of corruption in the country. Prior to the establishments of these agencies, a number of anti-corruption bodies like miscellaneous offences Act of 1991; the National Drug Law Enforcement Agency (NDLEA) Act of 1999; Advance fee Fraud (otherwise known as 419), and related offences Act of 1995; and the Money Laundering Act of 1995 (Now repealed by MLPA, 2004 (Ribadu, 2005) among others were in place. Government had to establish ICPL and EFCC as indication that previous institutions did not perform to expectation. Objective assessment today does not give the two new bodies pass mark either. Like the earlier institutions, the ICPC and EFCC have faced some problems stalling their performance. Common among the problems is the slow and cumbersome judicial process in Nigeria. Other problems that have militated against the bodies are insufficient funds, lack of awareness of their existence and activities by majority of Nigerians living outside the major cities because of the poor spread of their activities, which seem confined mainly to Lagos and Abuja.

The two commissions therefore have been largely blamed for slow and poor performance, selective arrest and prosecution. Many as having served the interest of the former president, Olusegun Obasanjo, have largely perceived the commissions whose administration established them, for assault and vengeance on his political foes. This perception and the slow pace of prosecuting offenders rightly or wrongly have seriously eroded public confidence in the anti-graft bodies. Many

political big shots including former governors and ministers who served during former president Obasanjo's eight years period and were indicted for money laundering have been facing trial in various courts in the country for over one year now without any single of the cases fully determined yet (Obasanjo, 1999).

The rather disturbing tortuous judicial process is also the hallmark of the electoral tribunals trying cases of alleged electoral malpractices arising from the 2007 elections. Now above one and half years after the elections and the commencement of the trial by electoral tribunals, many of the cases are still very far from being concluded. These are proofs of the ineffectiveness of the Nigerian judiciary in for law enforcement and compliance. While we acknowledge the seeming thoroughness of the judiciary in the trial in some areas, the fact remains that the trial process is rather meandering and too delayed. Nevertheless, the result of the tribunal trials so far have substantially proved the gross abuse of the electoral process and assault on the peoples' will and their right to choose their leaders. This is one area of corruption that must be managed to attain the effective administration of justice and political stability in the country.

Another reform for which the Obasanjo's administration initially received the accolade of Nigerians and the international community as an assurance for transparency in governance is the Due Process as the guiding code for award of contracts that the administration put in place. Whereas due process had long been a code in the service for compliance, Obasanjo's administration amplified it as a tool for plugging leakages, elimination of wastes and diversion of public funds from the intended investment points and targets. It signaled an end to "business as usual" and represented a major element in the administration's reforms. According to Oby Ezekwesili, the mastermind of the project, due process was

the design of a rapid response mechanism for ensuring fiscal transparency, strict compliance with due process and effectiveness. Efficiency in costing, prioritization and execution of budget expenditure items resulting in an effective "follow-the money" tracking process by utilizing international and Nigeria expertise, and by adapting the best of information technology were also integral components of the due process mechanism. From the above, democratic governance in Nigeria, today, lacks the essential features and characteristics to guarantee transparency and probity. It stifles the right of the citizens to participate in the affairs of the state, promotes mediocrity and lacks the effective management for economic growth. Corruption remains a prominent feature of the system that is characterized by huge shortage of basic amenities like education, potable water, health care, good roads, steady power supply etc. Unemployment rate keeps rising while crime rises in similar proportion. The country with all abundant resources therefore remains as one with the highest poverty rate in the world with meager income per capita of barely \$560 as at 2005 (World Bank 2007).

### 3.0 The Way Forward

The prevailing situation in Nigeria discussed in this paper needs to be urgently addressed. Nigeria will immensely benefit from a governance system that guarantees effectiveness and efficiency through the strengthening of the regulatory mechanism for evaluation of performance and monitoring for compliance. The existing legal framework and institutions, which are already in place, should be restructured and strengthened by enlarging their operational scope and powers where necessary, for greater efficiency in the enforcement of laws, rules and regulations.

The Nigerian judiciary in the recent times has demonstrated some measure of independence and preparedness to provide the necessary checks on the other two arms

of government by the outcome of its adjudication on matters affecting these arms of government and the individuals. However, its operations are still tortuous in which condition, it is yet to attain the expected level of efficiency and win the confidence of the public. It should speed up the determination of cases to be able to check the increasing number of offenders and help to eliminate corruption from the system. Effective control mechanism with appropriate sanctions will produce necessary salutary effects on the public servants. This will ultimately instill accountability and probity in the Civil Service in Nigeria.

There is a dire need to guarantee the rights of the Nigerians to effectively participate in the affairs of the country, particularly their right to choose credible leaders. A transparent electoral process that will check abuses is a *sin-a-qua-non*. It is important to do this so that the genuinely elected representatives are elected. The legislators should also carry out the oversight functions at the various governance level, federal, state, and local governments. The ultimate objective of the oversight functions of the legislature is to promote accountability; transparency and responsiveness on the part of the executive and by extension check and balances his actions (Bello Imam, 2005). For now a good number of the Nigerian legislators do not render account of their stewardship to their voters and do not operate outreach offices though they collect money for it. The obvious consequence for this is that those who they represent know little or nothing about the activities of the government. The system in that situation is not open to the people and receives no feedback from them.

Furthermore, if the judiciary effectively enforces the rule of law and the Legislature carries out its oversight functions effectively, the government will function as one in which separation of power truly operates. Such governance enhances

openness, judicious allocation and utilization of resources, effective control and monitoring of performance and compliance. It will also engender accountability, eliminate waste, and detract from opaqueness under which corruption thrives. The panacea, therefore, is the fostering of the principles and guidelines that promote transparency and probity to effectively manage resources restore the confidence of Nigerians, the international regulatory institutions as well as foreign investors who will collaborate in their efforts to work for the growth of the economy and the overall development of the country.

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