



# Due Process in Public Procurement as Anti-corruption Strategy in Nigerian Local Government

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**Abstract:** A uniform system of Local Government was created in Nigerian in 1976 with devolved functions and powers to serve as the engine of rural development. The 1979 Constitution further provided for statutory funding to enable the system perform the assigned roles. Decades later, the Local Government performed despicably having failed to spur grassroots development in spite of substantial financial allocations. Bureaucratic corruption is identified as the major problem preventing the realization of the objectives. Being ex-post facto, the study is an expository analysis of how corrupt officials steal Local Government funds and the implications for rural development. The study found that lack of due process in the system's procurement processes perpetuates corruption. The paper recommends among others, that the provisions of the Federal government's Public Procurement Act should extend to the Local Government.

**Keywords:** Local Government, Corruption, Anti-corruption, Due Process, Public Procurement, Public Procurement Act

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## 1. Introduction

The Nigerian local government is the third tier of government established to drive rural development. It is to achieve this through inclusive and broad-based growth using local and national resources. The major task is to deliver public goods and services to rural dwellers as dictated by the peculiarities of the local environment. It is empowered to mobilize and utilize internally generated revenue in addition to other fiscal allocations from the Federal and State governments.

The proximity of the local government to the grassroots make them valuable instruments for providing effective and efficient services to the rural, mainly agrarian communities characterized by under-developed infrastructural facilities. In reality, the performance of the local government as catalyst for rural development falls below public expectations. The rural environment depicts a lugubrious picture of poverty and underdevelopment despite substantial statutory financial allocations over time. People living in the rural areas constitute the bulk of Nigerians living below the national poverty line and the number is increasing.

The dysfunction is attributable to pervasive bureaucratic corruption, which undermines the political, social and

economic essence of the local government. Before now, governments initiated various anti-corruption measures with a view to ameliorating the menace. The Public Procurement Act, which many perceive as an instrument for good governance, is one of such strategies. The Act seeks to enthrone due process, which many believe is an antidote to corruption in public procurement.

Curiously, many State governments are reluctant to adopt the Act while no Local Government has complied. Presently, the Federal government lacks the constitutional powers to enforce the provisions because of the Federal structure of Nigeria. This paper examines the nature and reason for the Local Government, the incidence of corruption and their dynamic interplay. It concludes that corruption vitiates the capacity of the Nigerian local government to achieve its objectives. It further evaluated the provisions of the Federal government's Public Procurement Act and recommends that the provisions be enshrined in the constitution of the Federal Republic of Nigeria. As a statute, its implementation becomes mandatory for by States and Local governments. It further recommends ethical reorientation for Nigerians as a way of changing society's value system, perception and attitude towards corruption; and to socialize the youth on the virtues of honesty and integrity.

## 2. The Nigerian Local Government System

The creation of States and Local Governments is an apparent attempt by the Federal government to decentralize some of its duties and responsibilities to lower level political structures. The devolution involves the transfer of specific responsibilities and functions to the State and Local Government as sub-national governments. The objective is to speed up national development evenly in line with the political, economic, social and cultural peculiarities and gradations of the geographical areas. The local government, as opposed to local administration, is not peculiar to Nigeria and has many variants depending on the existing political structure.

The United Nations Office for Public Administration cited in [1] defines local government as the political subdivision of a nation (or in a federal system) state, which is constituted by law and has substantial control of affairs, including the powers to impose taxes or to exert labor for prescribed purpose. The governing body of such entity is elected or otherwise locally selected. Oyediran cited in [2] view it as a government in which popular participation both in the choice of decision-makers and in the decision-making process is conducted by the local bodies, which while recognizing the supremacy of the central government, is able and willing to accept responsibility for its decisions.

The 1976 Federal Government's Guidelines for Local Government Reforms offers a more comprehensive definition of local government. It defines it as the government at local level exercised through representative council established by law to exercise specific powers within defined areas. These powers should give the council substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services; and to determine and implement projects, so as to compliment the activities of the state and federal government in their areas. The devolution of these functions is to ensure that the councils, through the active participation of the people and their traditional institutions, initiate local projects, deliver services and maximally respond to local needs. The reform established a uniform, single tier, all-purpose, grassroots system of Local Government each administered by an Executive Council throughout Nigeria and squarely assigned to it the task of rural development. The Local Government is expected to mobilize human and material resources for the provision of services and development activities according to local needs and initiatives.

The provisions were later enshrined in the 1979 Constitution of the Federal Republic of Nigeria, with more devolution of statutory functions and revenue sources. Section 7 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) guaranteed a system of local government by democratically elected Local Government Council. The Constitution empowered the State government to ensure their existence under a law made by that state. The law must clearly define the establishment,

structure, composition, finance and function of such council.

The Constitution clearly outlined the functions of the Local Government in its fourth schedule and provided for intergovernmental fiscal relations with the State and Federal governments through statutory allocations. From the foregoing, the local government has the attributes of relative independence or autonomy, localness, statutory functions, democratic governance, definite boundary, population, funding, powers to make laws, formulate and implement policies [3], [1], [4]. The creation of local government is strategic for a number of reasons [5]. First, they have better information of local conditions and how best to address them. Second, they are better positioned to target resources to the poor across sectors of rural communities according to local needs and to monitor project implementation. Third, they are better positioned to recruit personnel such as teachers and health workers to provide services to the remote areas.

According to Omamo cited [6] and Olowu cited in [7], the objectives of local government include the establishment of constitutional representative government that provide opportunities for local communities to exercise their democratic right to self-governance and build capacity in citizenship and inclusive decision-making. Second, to mobilize human and material resources for local development. Third, to promote accountable, all-inclusive, transparent and credible democratic self-rule at the grassroots. Fourth, to create avenue for claim making on Federal and State governments. Fifth, to reduce social discrimination and cleavages by involving all the people to have a say on how affairs that concern them are run. Sixth, provide two-way channel of communication between the local populace and higher levels of government.

The devolution of specific powers and responsibilities to the Local Government are therefore part of the over-all paraphernalia and appurtenances of governance [7]. In terms of funding, section 7 (6) of the 1979, Constitution provides that the National Assembly shall make provisions for statutory allocations of public revenue to the local government councils in the federation, and the House of Assembly of a state shall make provision for statutory allocation of public revenue to local government councils within the state.

The Constitution also empowers the Local Government to mobilize and utilize funds from internal sources such as community rates and other financial charges for services rendered within its jurisdiction. The following sources of revenue are therefore available to the Local Government:

- i. Statutory allocation from Federal government
- ii. Statutory allocation from the State government
- iii. Internally generated revenue
- iv. Grants and loans.

By an Act of the National Assembly, the 774 Local Government Councils in Nigeria are jointly entitled to 20% of monthly accruals to the Federation Account while each State shares 10% of their internally generated revenue to the Local Government Councils in that State [8]. Before the economic recession, the Local Government Councils also

benefitted handsomely from the Excess Crude largesse and more recently, from the Paris Club refund.

*Table 1. Summary of local government finances from 1993 – 2015 (N' Billion).*

<b>(A) REVENUE</b>		<b>(B) EXPENDITURE</b>	
<b>Revenue Sources</b>	<b>Amount</b>	<b>Type of Expenditure</b>	<b>Amount</b>
i. Federation Account	9,761.07	Recurrent Expenditure	11,454.98
ii. State allocation	131.38	Current Exp. +/-	3,847.90
iii. Value added tax	2,144.41	Capital Expenditure	3,937.83
iv. IGR	375.18	Total Expenditure	15,392.81
v. Excess crude	1,166.86	Overall surplus/minus	57.96
vi. Budget Aug.& SURE-P	901.30	Financing	- 57.96
vii. Exchange gain & Non-oil Excess rev	184.36	(a) Loans	49.66
viii. Grants & Others	638.33	(b) Opening Balance	130.69
Total Revenue for the period	15,302.89	(c) Other funds	- 230.65

Source: Central Bank of Nigeria- Annual statistical bulletin for 2014 & 2015

According to [9], the 774 Local Government Councils in Nigeria received revenues from various sources amounting to ₦15.3 Trillion between 1993 and 2015. The recurrent expenditure is ₦11.4 Trillion while the capital expenditure is ₦3.9 Trillion. This implies that the Local Government annual budgets targeted consumption and handouts rather productive investments and infrastructural development. It is worrisome that some Local Government Councils, with the tacit approval of their State Governors, borrow money from and are heavily indebted Commercial Banks to finance consumption (see Appendix 2). The succeeding governments inherit the debt burden while the lending banks deduct agreed sums on monthly installments whenever statutory allocations are released

### 3. Statement of the Problem

The Local Government Councils have not performed above board as to meet the expectations of Nigerians. It is lacking in all indices of good governance, which, include being participative and all-inclusive, consensus-oriented, equitable, transparent, responsive, rule based, accountable, effective and efficient. In reality, the political class has hijacked the local government system and the rural people who it is supposed to mobilize for political participation and development are estranged. The opaque transactions in the local government is reflective of the Riggesian prismatic society characterized by the Sala and Bazaar Canteen, by serving as avenue for self-enrichment and personal aggrandizement. The rural areas bear abysmal and dismal picture of poverty and underdevelopment despite years of financial allocations and grants to the 774 local government Councils throughout Nigeria (see Appendix 1). Rural poverty is multifarious, and manifests as inadequate access to government utilities and services, poor sanitation, hunger, disease, under-developed infrastructure, illiteracy and ignorance, poor health, insecurity, social and political exclusion, environmental degradation, etc. There is the paucity or total absence of good or functioning health centers, potable drinking water, access roads, agricultural facilities, etc.

The [10], using an estimated population of 163 million, stated that 112.47 million Nigerians live below poverty line.

This represents a poverty incidence of 69% among Nigerians. Using four different indices of food poor, absolute poverty, relative poverty and dollar per day, the Bureau found that the incidence of poverty on each index among the rural dwellers are 48.3%, 66.1%, 73.2% and 66.3% respectively. The United Nations Development Program rated Nigeria low on the human development category at 152 position out of 188 countries in 2015 [11]. The data paints a lugubrious scenario of poverty and decay despite Nigeria's enormous natural resources endowment.

It is arguable that the task of providing social services is not that of the local government alone. Ideally, there should be synergy on which the complementarities and underpinnings of the three tiers of government in Nigeria rests. This does not therefore, exonerate the State and Federal governments from blame for failing to use, in the most rational way, the nation's vast resources to improve the living conditions of Nigerians. However, the Local Government bears the bulk of the indictment for failing to mobilize the people for rural development at the lowest level.

The problem therefore, is to identify why the Local Government has not been able to achieve the objectives for which it was established. In order words, what are the factors responsible for the ineptitude and how do they interject to impact negatively on the Local Government?

### 4. Review of Literature

The poor performance of the Local Government elicit lots of interests and several reasons have been advanced [3], [5], [6], [12], [13], [14], [15], [16]. They include inadequate constitutional and institutional provisions, lack of fiscal sustainability and budgeting expertise, lack of autonomy and meddlesomeness, prebendal politics, short tenure of local government councils, low technical and managerial capacities and skills, undue interference by higher political authorities, over-dependence on Federal and State transfers, over-bloated, politicized bureaucracy, sham council elections, corruption, political, economic and social exclusion, and economic mismanagement. [5] attributed the poor performance of the Local Government to low political accountability, economic rent and Local Government capture, diversion of public funds by political elites, lack of checks

and balances from overarching and more powerful arms of government, administrative and management incapacity. For [17], the factors include underdeveloped technological infrastructure and capacity, inadequate technological framework for revenue generation, disadvantageous political structures, budgetary shortfalls and imbalances in intergovernmental transfers. For Akpan cited in [2], the concept of autonomous Local Government is a theoretical abstraction because though it has corporate identity, their establishment, structure, composition, finance, functions and powers devolve from the state or Federal government, which makes them subservient in practice. Some Local Government Councils depend substantially if not wholly on Federal and State statutory allocations through the Federation and State Joint Local Government Accounts (SJLGAs) respectively and grants to satisfy their financial needs. The truth is that inadequate financial base of most Local Government Councils makes it practically impossible for them to carry out their constitutional functions effectively.

There is also the problem of meddlesomeness, undue interference by the higher levels of government and political control by state governors. The Constitution provides that the State Houses of Assembly shall determine the establishment, structure, composition, finance and functions of Local Governments. This provided the leeway for the State Houses of Assembly to determine the tenure of elected Local Government Council. The current tenure is two years, which is considered too short for any government to make meaning impact. The creation of Development Centers by some State governments raised many concerns because the Governors exploited it to have unbridled access to local government finances. The State Governor often decides whom the Executive Chairman becomes while the political party in power may determine how councilors emerge. The trend is for party stakeholders to select prospective councilors on rotational basis. Furthermore, the State government constitutes and finances the state electoral body as umpire for the local government. The State Governors manipulate Local Government elections to suit them because it forms the basis of the party's grassroots structure. The elections are a charade while the elected Executive and Legislature becomes mere rubber stamp. The implication is that representation becomes undemocratic - a turn-by-turn business for the benefit of party loyalists to have a fair share of the social pie or national cake. The desire is not to serve but for personal aggrandizement. The development erodes political accountability while promoting exclusion and apathy.

Another thorny area is section 149 (4, 5 & 7) of the 1979 Constitution. Sub-section 4 provides that money due to the Local Government from the Federation Account shall be allocated to the States for the benefit of Local Government Councils as may be prescribed by the National Assembly. Sub-section 5 provides that the accrual from the Federation Account shall be paid into the State Joint Local Government Account maintained by the State. Furthermore, the State House of Assembly decides how the monies accruing to the

Local Government Councils shall be distributed. [13] argue that the operation of the State Joint Local Government Account and lack of transparency and accountability provide the leeway through which local government finances are siphoned. Some Governors brazenly award contracts for projects to be executed in particular Local Governments Areas on behalf of the rubber stamp Council Executives in their States and force the Chairmen to sign relevant authorizing documents. The costs of such 'contracts' are deducted monthly at source from the State Joint Local Government Account.

Some Local Governments Chairs obtain loans from banks at commercial interest rates in the name of the Local Governments Councils. Such monies often end up in private pockets while the Council remains indebted. It is common knowledge that many Local Governments Council owe their workers arrears of salaries for many months even when the statutory allocations are released regularly. It is noteworthy that the Nigerian Local Government is structurally and functionally faulty and that politicians exploit the lapses to enrich themselves through corrupt practices.

It is inferred that corruption is a recurring factor and appears to be the major condition that both vitiates and obviates the realization of the lofty objectives for establishing the Nigerian Local Government [6], [12], [15], [16], [17], [18].

## 5. Conceptual Explication of Corruption

Corruption is a social cankerworm that permeates the fabrics of the Nigerian society. It is the bane of Nigeria's development. Corruption is so ubiquitous that it is now part of our national culture and a way of life for many. The Transparency International cited in [19] defines corruption as the misuse of entrusted power for private gain or the use of public office for private gain. The above definition seems to suggest that corruption is restricted to the public domain. [20] presented a wider conception of corruption to mean any act which deviates from the rules of conduct, including normative values, governing the actions of an individual in a position of authority or trust, whether in the private or public domain, because of private-regarding motives, such as wealth, power, status etc.

In other words, use of official position, rank or status by an office holder for his personal benefit constitutes corruption. Therefore, corrupt behavior include bribery, fraud, stealing public resources, partiality, favoritism, seizure of public assets for private use, theft, embezzlement of public funds, appropriation or expropriation of public property, nepotism, granting of favors to personal acquaintance, etc. [21]. Others are acceptance of gratification and other forms of inducements, influence peddling; conflict of interests in contract award, extortion, nepotism, election rigging, procurement fraud; insider information trading; diversion and misappropriation of funds, falsification of official records; payment for favorable judicial decisions, examination malpractices, etc. [19]. It involves behaviors, which deviate

from the moral and constitutional requirements or conscious and calculated act to appropriate or divert by unlawful means, the common wealth or resources of the public for private benefit.

The palpable causes of corruption in Nigeria include prolonged military incursion into Nigerian politics, lack of patriotism, weak institutions, inadequate legal framework, prebendal politics, poverty, mismanagement, poor work ethics, inefficient contract awards standard, reckless expenditure of public fund, absence of civic education, poor remuneration, inadequate accountability mechanism, etc [22], [23].

## 6. Theory of Bureaucratic Corruption

The theory of prebendal politics in Nigeria as propounded by [24] aptly explains the pervasive incidence of bureaucratic corruption in the Nigerian Local Government system. The theory states that occupants of public offices feel that their positions entitle them to unbridled access to public resources with which they not only satisfy their own material needs but also those of their families, members of their identity groups and cronies. This is rooted in the conviction by elected Government officials that revenues of the Council is their entitlement and those of their political patrons and cronies just like the right of member of a church parish to his share in the revenues of a cathedral. Prebendalism in this context refers to patterns of political behavior that perceive offices of the local government as something that may be competed for and then used for the personal benefit of the office-holder and the members of his/her reference group. The office then becomes susceptible to individual and communal appropriation while the statutory purposes of such office no matter how codified, becomes of secondary concern.

The theory appropriately explains the situation in the Local Government. The Council receives revenue from various sources yet the criminal diversion of such public resources by officials for selfish private ends starves it of funds for development purposes. The resulting patron-client or neo-patrimonial relationship obliterates political and administrative expedience, accentuates identity politics, and intensifies competition for public office while increasing poverty and inequality. Prebendalism also explains the appropriation of juicy public offices by politicians and other public servants to members of their identity groups. The theory suggests that to overcome the predation, all vestiges of patrimony must be dismantled and that an impersonal, merit-based bureaucracy that separates the office and the officeholder should replace venal office holding.

The patron-client mechanism makes the Local Government a “distributive arena” and conduit for looting the Local Government treasury by appropriating public resources for personal or parochial gains. By this, the authority entrusted to public offices is stolen by those appointed or elected to fill them. The practice enhances private wealth accumulation by elite office holders, pauperizes the masses, and accentuates social inequality

and insecurity. The opaque transactions make the local government a distributive arena for criminals instead of a guarantor of the public goods.

## 7. Corruption in the Nigerian Local Government System

The Nigerian Local Government system is said to be synonymous with corruption and has been described as 'centers or fortresses of corruption' because of the perversity and ubiquity [25]. Almost all departments of the system reek of the pungent odor of corruption. The inability of the Councils to provide services to the people at the grassroots has been linked to high levels of corruption among local government officials (Agba, Akwara & Idu) cited in [16]. There have been glaring cases of embezzlement, misappropriation and mismanagement of funds by Council officials. The malfeasance has its roots in the structural and functional flaws associated with the statutes that created the system.

[26] classified corruption into three broad forms or types that seems to fit into the local government scenario. They are petty administrative or bureaucratic corruption, grand corruption and Local Government capture.

(a). *Petty administrative or bureaucratic corruption* - involves isolated transactions by individual public officials who abuse their office by demanding for bribes, kickbacks, diversion of public funds, award of favors in return for personal gain, etc. Although, it is classified as petty, the amount stolen is substantial. This applies to Local Government employees who are in charge of collecting internal revenue and who indulge in fraudulent and sharp practices for personal enrichment. This may manifest in the form of under-assessment of revenue (such as tax, rates, and fees), issue of fake receipts for official payments and diversion of revenue, falsification of official records, embezzlement, bribery, etc.

(b). *Grand corruption* - involves theft or misuse of vast amounts of public resources by local government officials especially the political or administrative elites. The politicians (Executive Chairman and Councilors) and senior administrative officers (such as Secretary, Treasurer and Head of Personnel Management) constitute the top echelon of the Council. They mostly superintend over the award of contracts, procurements and other financial decisions regarding statutory allocations to the Local Government Council. Grand corruption is perpetuated through the award of inflated, fictitious contracts, payment for unviable projects that are easily abandoned, pay roll padding and ghost worker racketeering, padding of budgets, kickbacks, procurement rackets, fraudulent sale of government property, embezzlement or diversion of public fund, etc.

(c). Local government *capture* - involves hijack or collusion by private actors with public officials or politicians to siphon public funds for their mutual private benefit. It occurs when the private sector captures the local government

legislature, executive and other officials for its own purposes. In this instance, powerful interests parading as stakeholders and godfathers may share monthly statutory allocations to the Local Government without recompense to other financial commitments of the Council. In some instances, social services statutorily undertaken by the local government are contract out to patrons and benefactors for petit sums. This has implications for internal revenue generation in the local government and the staff who become redundant. It is common knowledge that some Councils owe staff several months arrears of salaries in spite of the fact that monthly allocations are released as and when due. This obtains mostly in situations where powerful interests, masquerading as godfathers produce and probably bankrolled the election campaign expenses of political office holders. Examples are contracting out services for political patronage, economic rent, prebendalism, clientelism, pay-offs to political godfathers and cronies, etc.

The ubiquitous and unbridled embezzlement of funds by officials renders the Local Government financially insolvent and therefore, incapable to discharge the statutory duties and responsibilities. In the circumstance, the task of providing basic needs to the citizens and mobilizing for grassroots development becomes a fleeting illusion [6]. The astronomically high level of corruption in the system makes it difficult to channel even the available resources towards development projects and programs. There is the opinion that statutory allocations to the Local government Councils are too meager and that the State and Federal governments that get more financial allocations have fewer responsibilities. The argument is that the resources available to the Local Government are not enough and that more money should be made available to them [14]. The counter is that number or amount does not really matter but that what should be paramount is the tangible achievement made with what is available. The inference is that, apart from budgetary shortfalls due to imbalances in intergovernmental transfers and other financial constraints, the Local Government ought to have made substantial impact on the lives of the rural populace given what it received as revenue over the decades. Corruption is the major obstacle that vitiates the effectiveness of Local Government service delivery apparatus because public resources, no matter how small are filtered away into private pockets [18].

The impact of corruption as a factor of underdevelopment is aptly underscored by Ochonju cited in [19]. The author posited succinctly that embezzlement, mismanagement, or misapplication of public funds often lead to cessation of certain social services, or the non-completion of public projects. The deterioration and scarcity of infrastructure and other social services have worsened in direct proportion to the corruption problem. The loss of public funds to corruption translates inevitably to lack of medicine in rural hospitals; lack of access to education for millions of children; lack of potable drinking water and electricity for millions of people; and lack of good transportation infrastructure.

The effects of corruption are ruinous. It hurts growth,

impairs public capital accumulation, drains financial allocations to the Council, and increases cost of governance, income inequality and poverty. The high level of corruption is attributable to bad governance. According to [27], governance refers to the traditions and institutions by which authority is delegated and exercised on behalf of the people and the process by which those in authority are selected, monitored and replaced. It includes the government's capacity to effectively manage its resources, implement sound policies, and respect citizens and institutions that govern economic and social relations among groups.

The import is that governance has political, economic and institutional dimensions but that corruption undermines all of them. The traditions and institutions that regulate ascendance and exercise of power, the decision-making and implementation processes, the procedures and framework of norms and rules that govern human interactions, etc. had been eroded. [26] posit that corruption thrives in the local government for a number of reasons.

(i). Institutions of accountability are ineffective – corruption thrives in the local government because the institutions of accountability that forms a link between politicians and the people that elected them is missing. In situations where candidates are selected rather than elected, their allegiance is to the political benefactors and not to the electorates. In terms of public financial management, the institutions that ought to conduct oversight functions are also very corrupt and ineffective. The local government has an internal control mechanism such as civil service rules, financial regulations, tender and approval processes, etc. in addition to the oversight functions of the Auditor-General, Accountant-General, Judiciary, the Legislature, etc. Unfortunately, these institutions are weakened by corruption.

(ii). The rule of law is weakly embedded and selectively applied – The Nigerian syndrome is that public officers steal so much money and use part of it to 'buy justice' when confronted by the law. Laws apply selectively and justice is for sale to the highest bidder. The obvious question is 'How can there be social justice when the criminal justice system, the civil society and even the third estate of the realm that ought to be in the vanguard of anti-corruption and good governance are also fortresses of sleaze?' The question is particularly worrisome when recent happenings in the Police and the Judiciary are considered.

(iii). The legitimacy of the Local Government as the guardian of public interest is contested – the ideal role of the Local Government is to provide social welfare services but in reality the people are alienated. The Local Government administration embodies all vestiges of poor governance by being exclusive and selective, non-consensual, unaccountable, opaque, unresponsive, ineffective and inefficient. Selection rather than election breed apathy and alienation while lack of accountability and transparency incubate mutual mistrust and suspicion among the critical masses. Sometimes unscrupulous officials ensnare public angst by extorting money for services that are not rendered. These are predisposing factors of social conflict

(iv). The commitment of the political class to fight corruption is weak – The leadership across the tiers of government continues to recycle itself and is heavily tainted by corruption. The local government ideally, is training ground for higher political responsibilities. In reality, the system produces very corrupt prototypes. Searching for a Nigerian politician that is not corrupt is like searching for a virgin in a non-caesarean maternity ward. Most actors at the state and national levels are products of the grassroots politics. The political class lacks the political will and commitment to fight corruption and many senior office holders are motivated to work against it. Fighting corruption, for a politician, is like one digging his own grave knowing that one day he will be a victim of his own action or shooting oneself in the leg.

## 8. Government Anti-corruption Initiatives

The government, before now had enunciated a number of anti-corruption initiatives in the form of policies and other institutional arrangements. The measures include War Against Indiscipline (WAI) and War Against Indiscipline and Corruption (WAI-C), Code of Conduct Bureau (CCB), Independent Corrupt Practices Commission (ICPC), Economic and Financial Crimes Commission (EFCC), Public Procurement Act, etc. It is worrisome that the institutional measures and codes of conduct failed to make a dent on corruption. The social malaise continues to increase in astronomical proportions and dimensions instead of ameliorating. Some of the institutions are harangued as instruments of vendetta against political opponents.

[21] argue that the anti-corruption measures are ineffective because the ethical organizational frameworks of the various institutions are dysfunctional. The institutions are unable to inculcate and enforce the codes of ethics and personal values of the members of the organizations and the public. The situation calls for concerted action on the part of both the government and the public. [21] further recommended the institutionalization of due process in Nigerian institutions and traditional oath taking as a theistic approach to African values.

## 9. Due Process in Public Procurement as Anti-corruption Initiative in the Local Government System

One of the basic requirements for the local government to achieve the objectives for which it was created is to ensure judicious use of available resources. It has however, been established that the Councils have not lived up to expectations because of corruption. Local government officials indulge in reckless financial expenditure, contract awards, and procurements without recourse to extant rules and regulations and due process. Public procurement is the

acquisition of goods, services and works by any government or its affiliate such as Ministries, Departments or Agencies using public funds. Government officials grossly inflate the cost of contracts, award contracts for phantom or non-existent projects; pay up-front for unfinished projects in order to collect kickback or commission, etc. It is common knowledge that applicable rules and confidential insider information regarding tenders, bids and contracts are sometimes commoditized or traded and that award of the actual contracts often skew in favor of predetermined or anointed winners. Projects are rarely prioritized, harmonized or coordinated; poor budgeting creates room for underfunding and abandonment [28]. The OECD cited in [29] posit that irregular procurement activities in public institutions provide the biggest loophole through which resources are misappropriated in Nigeria.

The Federal Government's Due Process, initially under the supervision of the Budget Monitoring and Price Intelligence Unit (BMPIU) in the Presidency, is a mechanism that has openness, competitiveness, cost effectiveness, consistency, integrity, transparency and adherence to rules and procedures in public procurements as its principles [15], [30]. The objective is to ensure strict compliance with the Federal Government's laid down guidelines and procedures for the procurement of capital and minor capital projects as well as associated goods and services. For [31], it presents a ready instrument of transparency and accountability in the budgetary procurement and expenditure processes. It states in clear terms the criteria for the contracts, the priorities, benefits, technicalities, costs, management and payment schedule. The reform is a key prerequisite for good governance because it gives value for money, prescribes ethical code of conduct, competitiveness and transparency in the procurement process [32]. Due process implies that governmental activities and businesses should be carried out openly, economically and transparently without favoritism and corruptible tendencies (Ezekwesili cited in [33]).

The objectives of the Due Process policy are:

- (a) to harmonize and update all existing policies and practices in public procurement;
- (b) to ensure that projects are conceptualized, prioritized, packaged and executed as budgeted;
- (c) to strictly enforce the principles of transparency, probity, accountability, competition, efficiency and value for money in the procurement of public goods, works and services;
- (d) to establish and update pricing standards and benchmarks for supplies to government;
- (e) to ensure that the execution of contract are monitored to maintain standards on performance, output and compliance with specifications and targets
- (f) to prevent extra-budgetary spending and inflation of contract prices.
- (g) to ensure that projects are duly budgeted for to avoid abandonment;
- (h) to ensure that budget spending are authentic.

The intention is to enhance efficiency in the management

of government funds (award of contracts, project monitoring, supervision and budget implementation). It helps to improve public procurement processes by adhering strictly to set out conditions, guidelines, procedures and other requirements. The Due Process as a measure lacked force and was easily circumvented because, as a mere presidential initiative, any statute did not support it. Consequently, the Federal government articulated and embedded the principles of Due Process in the Public Procurement Act, 2007 as a strategic way of institutionalizing the fight against corruption in the public procurement process. The Act established the National Council on Public Procurement to supervise the Bureau of Public Procurement [34]. The objectives are to harmonize all government policies and practices on public procurement while ensuring probity, accountability and transparency. Second, to establish pricing standards and benchmarks while ensuring the application of fair, competitive, transparent practices for the procurement and disposal of public assets and services. Third, to ensure transparency, competitiveness, cost effectiveness and professionalism in the public sector procurement system.

Apoti cited in [35] further stated that the Public Procurement Program seeks to establish a statutory and institutional framework for public sector procurement with clear-cut mechanisms for credibility, integrity and transparency in contract award. It encourages competition and ensures value for money by adopting international best practices in the award and review of contracts. Above all, it prevents waste, inefficiency and opportunities for corruption in the award of contracts.

The sequence or due process for the implementation of public procurement is as follows: (a) Need identification. (b) Evaluating alternatives/procurement decision. (c) Advertisement/invitation to tender/bid (d) Prequalification of contractors (e) Opening of tender and financial evaluation (f) Contract agreement including schedule of payment (g) Determination of stages of work completion (monitoring, evaluation and supervision) (h) Completion of work certificate.

As governance reform mechanism, the general expectation is that the state and local governments will institutionalize the key components of the Act in line with the Federal government's initiative. [33] contends that due process in public procurement is an antidote for fraudulent practices in the public sector especially when complemented with the existing internal control mechanisms and behavioral engineering of the actors through moral, religious, ethical and social reorientation. The view contrasts with those of [35] and [36] who posit that Due Process still fall below the expectations of Nigerians because it failed to rejuvenate and reinvigorate accountability, honesty and transparency in the public procurement process as envisaged. However, it is imperative to note that Due Process is not an end in itself considering the fact that corruption permeates all fabrics of the life of Nigerians. It should complement other anti-corruption initiatives especially the criminal justice system to punish offenders. For instance, it is obvious that the

Economic and Financial Crimes Commission (EFCC) has overtaken the Police in investigating high profile criminal cases but the worrisome thing is that convictions have been slow lending credence to the allegation that the anti-graft agencies and the criminal justice system are also perverted.

The contention is that, though it may not be the panacea, all tiers of government should adopt and implement the public procurement laws because of the strong conviction that it is the surest way of institutionalizing the reform agenda. Unfortunately, most states are apathetic and are unwilling to adopt the innovation because of the chronic tendency towards corrupt practices by the political class. Although, about 24 states have adopted and passed the public procurement law albeit reluctantly, no single local government has enacted public procurement byelaw [37]. This portends some danger. At present, the federal share of statutory allocation is 48% while the 36 states and 774 local governments take the lion share of 52% (Ikeji cited in [37]). The import is that more than half of national earnings (52%) which recipients are yet to institutionalize public procurement law may go down the sinkhole of corruption without trace for lack of standard public procurement regimes.

The author further asserts that the States and Local Government have not adopted the public procurement law regime because of the nature and challenge of federal system of government, lack of will to initiate development change, penchant for unaccountable, opaque, self-serving and insensitive transactions as well as the absence of strong and compelling institutions. In essence, states and local governments have capitalized on their independence to law making as guaranteed by the Nigerian federal system of government to work against effective deployment of public procurement laws as veritable governance mechanism to fast track Nigerian sustainable development. As sub-national governments, they are autonomous and cannot be compelled to implement the Act by the Federal government. This is a fall-out of the federal system. Others are citizen refusal to demand accountability, political apathy and pervasive corruption in low and high places that has become Nigeria's socio-cultural value.

As a way forward, [38] proposed a major step in designing the Procurement arrangement in the Local Government System. The authors suggested that the reform should establish a Tender Evaluation Committee in all the Councils which membership shall constitute the Executive Chairman, Supervisory Councilor for Works, Head of Personnel Management, Treasurer and Head of relevant Department. It is however, suggested that the Head of Personnel Management should be replaced with the Secretary to the Local Government by virtue of his position as the administrative head of the Council and responsible to the Local Government Service Commission

## 10. Conclusion and Recommendations

The Nigerian Local Government System, no doubt, is

heavily tainted - a sinkhole of corruption and sleaze. Corruption, is identified as the most pervasive and devastating factor that prevents the system from attaining its objectives. Having examined the local government as a concept vis-à-vis the *raison d'être* for its establishment, it became imperative to also understand the extent of the damage done by corruption and how it can be ameliorated. This paper posits that the Federal Government's Due Process as encapsulated in the Public Procurement Act, if implemented by the States and Local Governments, will go a long way to imbibe probity, transparency and accountability in public financial management. In view of the foregoing, the paper recommends as follows:

- (1) The Public Procurement Act should be harmonized into standard public procurement practices and enshrined in the Constitution of the Federal Republic of Nigeria. This will make it mandatory and compelling for all tiers of government to implement.
- (2) The Local governments should adopt in principle, the federal government's 'State and Local Government Program on Procurement,' which are clear guidelines on public expenditure management processes and systems of budgeting and implementation. It shows at a glance, the extent of compliance with budgets, procurement expenditure and project performance thereby providing mechanism for monitoring, supervision and documentation of Local Government projects.
- (3) Corruption is a social construct driven by socio-cultural and psychological factors. It borders on inability to delay gratifications and has attitudinal and behavioral components as shaped by the environment. Local Government officials perceive public resources as national cake that belongs to nobody. The government, civil society organizations and other community-based organizations should join hands to spur massive campaign across all strata of society on the evils of corruption and the need for ethical re-orientation.
- (4) Since corruption is a debilitating societal problem, it should be built into the curricula of primary, secondary and tertiary institutions so that every pupil or student learns its negative effects and repercussions.
- (5) There is need to infuse professionalism and ethics in procurement by building capacity for Local Government personnel and to develop standard systems and practices. A procurement Unit should be established to sensitize, promote, educate and enlighten the public on enlightenment issues. The Unit is to stand as an advisory body to the proposed Tender Evaluation Committee of the Local Government.
- (6) The operational frameworks of the numerous anti-graft strategies and the criminal justice system should be harmonized and reinforced to infuse efficiency, eliminate inter-organizational rivalry and reduce duplication of functions and responsibilities. They should also be properly funded.
- (7) Above all, there is need to build consensus and the

political will to push for institutional reforms of the local government system to entrench good governance. Good governance minimizes corruption; ensures that the views of all strata of society are respected, and that voices of the most vulnerable or fringe groups in society are heard in decision-making. Good governance reinforces all other complementary institutions to build an egalitarian and just society that lays much less premium on private wealth accumulation. It is believed that the problem of corruption will be reduced in the Local Government System if the recommendations are implemented.

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