

# The Failure of Anticorruption Campaign as a Failure of Law Reform in Nigeria

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**Abstract:** Since 2003, anticorruption war has become a major plank of Nigeria's governance reform. As part of the war, Nigeria has enacted anticorruption laws and established anticorruption agencies. This marks the triumph of 'law enforcement' over 'change management' approach to fighting corruption. This approach has not produced significant improvement in the integrity of governance and state institutions. Despite massive investment in law enforcement efforts, corruption remains prevalent and Nigeria's standing in Corruption Perception Index (CPI) has not improved. This casts doubt on the potential of law as effective tool in the fight against corruption. The paper briefly reviews the history of Nigeria's failed engagement with anticorruption campaigns and identifies the reasons for failure in the law enforcement approach to fighting corruption. Utilizing insights from culture studies and institutional economics, the paper argues against legal formalism as it manifests in excessive reliance on law enforcement techniques and tools to counter corruption in Nigeria. The paper argues further that law enforcement is too limited to constitute the main strategy for fighting corruption because it faces mainly on the symptoms rather than on the underlying causes of corruption as a social pathology. Therefore, an exclusive focus on law in the sense of what prosecutors and judges do, is ill-suited as a cure for pervasive corruption. To effectively control or contain corruption, the paper recommends abandoning legal formalism and contextualizing and socializing law in the light of insights from culture studies and institutional economics to change political culture and improve collective action.

**Keywords:** Anticorruption, Legal Realism, Legal Formalism, Institutional Economics, Collective Action, Legal Reform, Culture

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## 1. Introduction

History repeats itself. As Karl Marx [1] wisely observed, history appears first as a tragedy and later as a farce. This is the second coming of President Muhammadu Buhari as President of Nigeria. The first time, as military dictator, the stern General promised hell against corruption. But he did not deliver. Yes, he imprisoned many politicians. He enacted draconian legislations that curtailed fundamental rights which he believed encouraged Nigerians to be corrupt. He launched a 'War Against Indiscipline' "to promote and emphasize discipline and professionalism among civil servants as a way of improving political and administrative efficiency" [2] Despite his rhetoric, he did not defeat corruption. Corruption survived Buhari's military dictatorship and flourished under two other military rulers and three civilian presidents after him. Now, as democratic president, will Buhari succeed where he

failed as a military dictator?

Corruption has been the story of governance in Nigeria colonial and post-colonial and under both military and civilian administrations [3, 4]. As Ocheje [5] puts it, corruption in Nigeria is 'widespread', 'banalized', 'resilient' and 'persistent' [6, 7, 8]. Many Nigerians believed that Buhari would change all that. In his speech at the inauguration of the Presidential Advisory Committee against Corruption (PAC), Buhari promised to 'kill corruption before it kills Nigeria' [9]. More than four years after winning election corruption remains rampant and the administration loses credibility because of its failure to effectively fight corruption. In its 2019 Corruption Perception Index (CPI), Transparency International (TI) rated Nigeria as the second most corrupt country in Africa. Nigeria lost two points from 2018 and its corruption perception is far worse than in 2015 when Buhari became president [10, 11].

President Buhari's failure to improve both the perception

and reality of corruption in Nigeria is mainly because his approach in the war against corruption has taken the beaten path of mostly law enforcement. This approach has been ineffective because it misdiagnoses the relationship between corruption and the cultural patterns and institutional orderings of society and misapplies anti-corruption legal regimes in a manner that deprives them of social oxygen. Therefore, strict enforcement of legal regime of anticorruption has not resulted in ending grand corruption, contrary to the promise of the Buhari administration [12]. This failure relates to a general failure of policy reform in Nigeria which has followed the neoliberal lineal approach instead of the integrated approach we have seen in China and the most successful Asian countries [13, 14, 15].

This paper links the failure of the fight against corruption in Nigeria to the failure of the form of legal reform which is based on the model of 'principal-agent' rather than collective action' explanation of social pathology. This model disposes towards legal enforcement rather than institutional change 'in 'fighting' corruption. The approach has been mostly legalistic. Although law is critical for the transformation of a society as part of the normative framework of state institution, and, from a Weberian perspective, represents the organizing logic of modern bureaucracy, law alone or even mostly cannot form the major arsenal of a strategic attack against grand and endemic corruption [5, 16]. It is true as Ocheje argues that "law can be an effective tool of social change because legal instrument can coordinate social behavior by creating new expectations". But it must be law that is embed in the dynamics of social interactions and integrated with other pillars of the social lifeworld in the Habermas's postulation [17]. In Nigeria, there is a huge dissonance between legal interventions in the war against corruption and social norms that define the problematic behaviors comprised in pervasive corruption. This dissonance makes legal interventions ineffective.

The paper starts with a history of anticorruption campaign in Nigeria and shows the efforts many administrations to deal with the challenge of corruption. Unfortunately, they mainly failed because of wrong diagnosis and resort to legalistic solutions. It discusses the legal approach to anticorruption and its weakness. I liken this approach to a path-dependency that creates a vicious circle of failure. The absence of 'deep democracy' makes legal intervention ineffective [18]. Legalism results in the harrowing out of democratic citizenship, which is the heart of accountability.

As a theoretic reflection, the paper examines the presuppositions of the legalistic approach to fighting corruption based on the 'principal-agent' model of social change and concludes that the anticorruption campaign will fare better if resort to law enforcement approach, which I define more as legalism, is discarded for an institutional change approach in which law plays a more socialized and contextualized role in incentivizing new social relations and behaviors. It calls for reconstruction of the regime of anticorruption initiatives in the emerging insights about the role of culture and institutions in changing social behaviors.

Since corruption is a socialization process, its reversal should be grounded in changing behavior through change of norms and redesigning of incentive structures. The transformative pathway should be integrative and not linear. It should generate and sustain new social compacts that stipulate different collective actions

## 2. Historical Perspectives on Nigeria's Anticorruption Campaign

Corruption is not a recent misfortune that has afflicted the country. It is not a periodic pandemic. Corruption in Nigeria has a long history. Conversations about corruption are daily staples in Nigerian homes, businesses, and social spaces. Whenever two or more Nigerians gather, the conversation will likely turn to the problem of corruption [8]. Chinua Achebe in his epic commentary on Nigerian politics, *The Trouble with Nigeria*, observes that "whenever two Nigerians meet their conversation will sooner or later slide in a litany of our national deficiencies" [19]. He identifies corruption as top of the list of such deficiencies. Thirty years after Achebe, Nigeria's former Finance Minister and former Managing Director of the World Bank, Ngozi Okonjo-Iweala, laments grand corruption in Nigeria involving theft of public assets by high public officials [20].

Corruption and efforts to deal with it have defined governance in Nigeria throughout most of the country's history [6]. Even during the colonial period, there were allegations of corruption in public governance. One of the most prominent early official statements on corruption came from the Emir of Gwandu. In February 1952, at the Northern House of Chiefs, he spoke against rampant bribery and corruption amongst public officers and urged action against corruption in the public service. In response, the House adopted a resolution to investigate alleged corrupt practices. The resolution also called for massive public enlightenment against corruption. A few years later, on July 24, 1956, Justice Strafford Forster-Sulton Panel of Inquiry found Nigeria's foremost nationalist and later its first President, Dr. Nnamdi Azikiwe, guilty of corrupt practice and breach of code of conduct. Dr. Azikiwe was found guilty of investing public funds in his private business. The other major Nigerian nationalist, Chief Obafemi Awolowo, was also indicted for official corruption. On June 20, 1962, two years after independence, the Justice G. B. Coker Panel of Inquiry found him guilty of conflict of interest and abuse of power in promoting private business. Consequently, the Western Nigerian government confiscated his shares in the Nigerian Investment Promotion Council (NIPC). Later in 1967, another panel of inquiry indicted fifteen public officers in the Mid-Western government for corruption [21].

This snapshot of corruption under colonial administration and through the first republic highlights three features. First, corrupt practices in public office cut across all the regions of the country. No part of Nigeria was unaffected by corruption, involving mainly abuse of power, conflict of interest and

conversion of public finance and resources for personal or group benefits. Second, corruption was not a matter of allegations and anecdotes. There are cases that were officially reported, investigated, and prosecuted; many of them resulting in conviction. Corruption during the colonial and early postcolonial administrations was not hearsay or 'beer-parlor' conversation. Corruption was amply reported and documented during those periods. Third, Nigerian governments responded to the menace of corruption mainly by resorting to law enforcement. In each of the cases, different governments set up administrative tribunals to investigate, determine and punish the corrupt public officials. Although the Emir of Gwandu asked for public enlightenment against corruption in 1952, the overwhelming response of government was law enforcement.

Post-independence, corruption remained rampant in Nigeria, under both military and civilian administrations. In 1965, the military intervened in Nigerian governance and inaugurated an era of military dictatorship. The justification for military rule in Nigeria was the need to deal with systemic and pervasive corruption. One of the most remarkable military regimes in Nigeria was the Murtala administration that was short-lived. General Murtala Mohammed gave Nigerians hope of a new beginning after a calamitous civilian regime. That hope was based on a promise to cleanse the Augean stable. The government launched a widespread purge of the civil service, tracking down public officers believed to be corrupt. When the dust settled, estimated 11, 000 public officers lost their jobs in the fight against corruption. It is generally believed that the purge undermined professionalism and ethical universalism and enthroned mediocrity and particularism in Nigerian public service [22, 21].

Murtala had promised in his inaugural broadcast that 'operation purge the nation' would "rid the nation of political/administrative incompetence, corrupt and morally delinquent civil servants and politicians and bring back respectability and professionalism to the country's public service" [21]. But at the end the chant of witch hunt and nepotism rent the air. Murtala was assassinated early in the administration and could not see through his reform. On February 14, 1976, his deputy, General Olusegun Obasanjo, took command of the administration and transitioned Nigeria to the Second Republic of civilian rule in 1979 [23].

Shehu Shagari became President in October 1, 1979 and committed his government to fighting corruption. He launched an ethical reorientation as a way of changing public attitude toward corruption and productivity. As part of ethical reorientation, the government enacted the Code of Conduct for public officers. But, more notably, it instituted the Justice Ayo Irikefe Panel to investigate allegations of corruption against the previous military government [23, 24].

It was the same story under the military administrations that succeeded Shehu Shagari such that Peter Lewis [25] argues that "Corruption has long been epidemic in Nigerian politics". Subsequent administrations up to Presidents Obasanjo and Jonathan faced the same problem of corruption, enacted laws, and established agencies to control it, but largely failed.

### 3. The Weakness of a Law Enforcement Approach to Anticorruption Campaign

Anticorruption campaign in Nigeria is path-dependent on its focus on law enforcement as the preferred strategy of fighting corruption. In the sense I use it here, a law enforcement approach consists of efforts at eliminating or controlling corrupt practices that are focused on criminalizing corrupt practices and establishing strong enforcement regimes against them. In the main, it consists of enactment of anticorruption legislations and setting up of anticorruption agencies with plenary powers to arrest, investigate and prosecute offenders.

As the brief historical review shows, this path-dependence started with colonial administration and continued with military and civilian administrations in Nigeria. The various administrations have overwhelmingly focused on the strategy of legal reform, conceived primarily as enacting stiff penalties for corrupt practices and unrelentingly prosecuting corrupt public officials. This strategy obviously derives from the conventional conception of corruption as a violation of appropriate rules. If corruption is a violation of rules of engagement, then the obvious response is to strengthen the efficacy of those rules through relentless prosecution and severe punishment [26]. This is an aspect of the 'principal-agent' model of anticorruption. It conceives of an agent whose behavior betrays authorization by the principal. Law enforcement empowers the principal to control the agent by 'investing in norm enforcing instruments' instead of 'norms building instruments' [27].

I recognized that the Nigerian governments have adopted what could be referred to as 'institutional model' of intervention designed to achieve "prevention, deterrence and public sector reform" [28]. But these have been largely side-attractions to the main strategy of law enforcement and culminate into either enactment of anticorruption legislations or creation of anticorruption agencies with renewed mandate to prosecute corrupt officials. We see it in the Emir of Gwandu's call for public enlightenment and the House of Chief's resort to prosecution [29]. Under Shagari, the highpoint was not the National Orientation Agency but the Irikefe Tribunal that indicted previous officials [24]. It was the same with Obasanjo who established the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) [20, 30].

The paper argues that systemic corruption has persisted in Nigeria despite decades of implementing a rash of anticorruption initiatives because these initiatives have been steeped in the error of legalism. By the 'error of legalism', I mean the assumption that the problem of corruption is basically the weakness of the rules and their enforcement. Legalism in this sense is the ideological pathology of over-commitment to a wholly law enforcement strategy in dealing with corruption. In fact, this over-commitment is

already implicated in the use of the phrase ‘fighting corruption’, which triggers the adrenalin of law enforcement. If, as Robert Klitgaard [31] put it, “corruption equals monopoly plus discretion minus accountability”, then the best response to corruption is to enact regulations that reduce the scope of bureaucrats to make discretionary interventions in economic transactions [32, 30, 33]. But this is a misdiagnosis that could lead to maladministration of cure. If, as the World Bank [34] argues, corruption is the abuse of public office for personal gains (see also [35]), then, the intuitive solution will be reform of procedures of decision making in order to better police discretionary behavior. But sadly, all these would be insufficient solutions because, as Mungui-Pippidi observes, “there is a very close negative correlation between rule of law and control of corruption” [27].

In this regard, the World Bank’s definition of corruption determines the logic of its development assistance, at least since 1997. The World Bank definition of corruption and prescription of state intervention is part of a larger narrative of role of law in development [36, 37]. Nigeria’s fight against corruption, at least since 1999, has been consciously inspired by the World Bank narrative of economic and social reform as a strategy for development. As part of the neoliberal economic reform and the prerequisites for development assistance, Nigeria undertook many of the institutional reforms comprised in the World Bank narrative of corruption and development [20, 38].

In their report on collective action on corruption in Nigeria, Leena Koni Hoffman and Raj Navanit Patel faulted the strategic direction of anticorruption campaign in Nigeria. They argued that “Nigeria has sought to tackle corruption through ‘traditional’ legal and governance-based measures, emphasizing the reform of public procurement rules and public finance management, anti-corruption laws and establishment of various agencies tasked with preventing corruption and punishing those who engage in it”. But in their view, such strategy cannot by themselves “foster a sustainable, comprehensive reversal of long-established assumptions and practices” [39]. The reason this strategy is deficient is that it does not address the deep social structure of corruption.

Central to the World Bank concept of policy reform is the agent-principal problem. This principle has a high-profile in traditional economic theory. It derives from informational asymmetry and incentive incompatibility [40, 41, 42]. This approach views corrupt practices, in the words of Benjamin Olken and Rohine Pande, as “modeled in line with a few general economic principles: corrupt officials respond to monitoring and punishment as one would expect from basic incentive theory”. [43]. Relating this agent-principal model to anticorruption strategies, Mungui-Pippidi [27] argues that “The dominant analytical framework of the literature on corruption is the agent-principal paradigm, wherein agents (for example government officials) are individuals authorized to act on behalf of a principal (for example a government)”. The problems with this paradigm include the difficult of distinguishing between agents and principals in situations of generalized collusion (endemic corruption), the need to craft

compatible incentives and the difficulty of finding a public-spirited and deterministic principal (the problem of political will).

Legal enforcement approach based on the agent-principal paradigm misunderstands the nature of corruption as a social pathology. The deep social structure of corruption in Nigeria is that it is systemic. This means that the people engaged in corruption are influenced in their practices not only by their own individual norms and rationality but also by collective norms and rationality. Corruption is self-reinforcing because rational actors find justification in other’s rationality. In the language of game theory, it could be called “interactive rationality” [44]. Corruption occurs in a context and the “essential element in the notion of a context is the mutual expectations of the players about the actions and expectations of the other players” [44]. People act corruptly because they believe that others would act corruptly and expect them to do likewise. This takes an effective anticorruption strategy beyond the traditional law enforcement and governance reform to collective action, which is game theoretic, reciprocity-based, and mostly indirect rather than direct [45, 46].

Whereas a law enforcement approach to anticorruption is necessary to deal with legal impunity it should not crowd-out attention for more strategic engagements with culture change and the challenge of path dependency. Even the institutional revision that accompanies a traditional rule of law approach to fighting corruption often distracts from the urgent work of instituting a ‘big-bang’ change of the political economy and all its incentives and coordination. As Douglas North [47] puts it, “History... does not seem to present us with a wide spectrum of societies gradually making a transition from old to new political and economic institutions”. There has been much reliance on so-called ‘rule of law’ reforms to lead to such institutional change. But as Bo Rothstein [46] rightly observed, pursuit of institutional change through “special national anticorruption agencies and more stringent law is in all likelihood misplaced”.

The reason piecemeal iterative legal reform and prosecution of offenders may not reverse Nigeria’s chronic and systemic corruption is because it may not effectively deal with the ‘culture of corruption’. The ‘culture of corruption’ arises because people “adjust their behaviour based on what they think other agents are going to do, and these expectations are generated endogenously by information about what other agents have done in the past” [48, 39]. Piecemeal legal reform will not convince enough people that their corrupt practices are no longer viable. Therefore, the reform will not reach “tipping point” but slide back into “old practices of systemic corruption”<sup>1</sup> [49, 46].

Winning the war against corruption is not about sending corrupt officials to prison and imposing harsher penalties. Corruption is not easily overcome because it feeds on strong

1 The concept of the ‘culture of corruption’ borrows from the work of Oscar Lewis with the poor in Mexico in 1959 resulting in his seminar work on ‘culture of poverty’. This concept is problematic because it could be taken to mean social determinism.

incentive and is reinforced by institutional path dependency. It is self-reinforcing and systemic because of the two regulatory principles of transactions: incentives and costs, interact with corruption. Both lead to the sort of socialization that ultimately makes corruption a social habit. Corruption is recurrent and resilient because the incentive structure and institutional path-dependency that feed corruption are deeply rooted.

So, to win the war against corruption we must be able to dismantle the perverse incentive structures and reverse the institutional path-dependencies that sustain it so that society begins to evolve in a new direction. If we succeed in dismantling the incentive structure and redirecting the evolution of our institutions towards clean politics, efficient and merit-based production and value-based public service, then we are winning the war against corruption. In this sense, getting beyond corruption is evolutionary rather than revolutionary. This is what it means to 'get to Denmark' [50, 51]. 'Denmark' is measured more by *who we have become* rather than *what we do*. Winning the war against corruption means becoming a democratic, open and merit-based society [26].

#### 4. Theoretical Reflection on Legalism and Formalism in Anticorruption Campaign in Nigeria

A singular or overwhelming focus on law enforcement will not defeat the culture of corruption in Nigeria. This failure relates to two manifestations of legal pathology in the failure of the anticorruption campaign. These pathologies are 'legalism' and 'formalism'. The former relates to too much faith in the magic of legal rules and the latter describes a situation of insufficient attention to the magic of the informal environment in which rules operates. Although strict enforcement of anticorruption is an important component of the broad approach to effective anticorruption campaign, a religious faith in the potency of law and legal institutions to defeat corruption may be illusory. I describe such blind faith in the magical powers of law and law enforcement as 'legalism', borrowing from political and legal philosopher, Judith Shklar.

As Judith Shklar [52] defines it, legalism is "the ethical attitude that holds moral conduct to be a matter of rule following, and moral relationships to consist of duties and rights determined by rules". Legalism emphasizes that "the court of law and trial according to law are the social paradigms, the perfection, the very epitome of legalistic morality". In my usage, it is legalism when the discourse of rule of law in anticorruption campaign becomes fixated on the efficacy of law and legal institutions to the detriment of culture and social structure. Legalism has various manifestations in the anticorruption campaign. First it manifests as a determination to contain corruption through the enactment of strong anticorruption laws without a strong realization by the ruling elite that corruption undermines its long-term interests and a determination to fight it.

Legalism thrives in legal convergence. Globalization fosters convergence of legal institutions towards an ideal type envisioned in the prevailing institutions in western democracies. Whereas the laws in those democracies are a product of intense political struggle and capture essentially the compromise which history has imposed on those societies, ours are the enterprise of do-good westerners and their local collaborators. The implication is that the law does not change consciousness and mobilize consciousness because it does not arise from lived experience. That is legalism: a belief that merely creating a new law has the magic to change behavior without regards to the nature of the social and economic interactions in the society. In anticorruption, legalism overlooks the fact that more or better laws may not translate to better control of corruption.

Legalism foists a wrong understanding of institutions and their relevance to real outcomes. The most dominant philosophical tradition in liberalism dating from Thomas Hobbes, Immanuel Kant and lately, John Rawls, is transcendental institutionalism, which Amartya Sen [53] defines as a search for "perfectly just institutions". Transcendental institutionalism focuses on getting the institutions right without bothering about the actual nature of the society that is or will emerge. This tradition overlooks social psychology and behaviorism. It denatures human beings into ideal characters. In the form of legalism, it manifests as an understanding of institution outside the social interactions that create them. For instance, the institution of public procurement is the Public Procurement Act and the bureaucracy created to administer the law. It has nothing to do with the political and social environment in which the incentive to execute the law or to effectively demand execution may not exist. An illustrative case in Nigeria is that although there is a Public Procurement Act the Presidency has refused to inaugurate the council required by law because it does not want civil society representation on the council. The law of public procurement exists. But does the institution of public procurement really exist?

Legalism gives us the shell without the substance. Legalism also gives us the false hope that once we have a whistle-blower protection law then people who hear, see, and know about corruption will have the motivation to report corruption. This is institutional fetishism at its worse. No whistle will be blown in a society where those who have blown whistles in the past are not well regarded by their compatriots. If we allow those who stick out their necks against corruption to be harassed out of dignified existence and they do not feel the secured community of fellow compatriots, it does not matter how many whistle-blower protections you have in the law, reasonable people will not blow the whistle. Michela Wrong [53] tells a story of a Kenyan who blew whistle against corruption. He was fired from his job. When Kibaki announced anti-corruption policy he expected to be reinstated. He was not reinstated or given another job, and no one was brought to book for the fraud. He died of pneumonia in the village where he had no access to health services. His greatest regret was that even during the

ritual of investigation his feat was not even acknowledged. Michela Wrong concludes that it is better to financially support these lone-ranger whistle blowers than funding smokescreen anticorruption agencies. Anticorruption will fail if we establish a whistle-blower policy without a culture of protecting those who blow whistle.

## 5. An Institutions and Culture Approach to Fighting Corruption

As Bicchieri, Lindermans and Jang [54] state, corruption is a socialization process. People act corruptly because they believe that others act corruptly and expect them to do the same [39]. Under strongly corrupting incentive structures people who don't have different and stronger motivation or value system would most likely act corruptly. Because we are embedded in our society's ideological and institutional constructs, we usually reflect the prevailing and legitimized values of our society. Scholarly research shows that cultural dimensions of society (especially norms and organizational and social capitals) influence patterns of social behavior [55, 56]. Based on this insight, success in the war against corruption should be measured more by how much this compelling incentive has been reversed and less by how many of those who acted corruptly have been punished. Those who acted corruptly should be punished otherwise we create another perverse outcome: impunity. But punishing them should be, at best, a component of a more strategic fight against the 'culture of corruption' not the only or main component, because "the whole culture needs to change, from regarding corruption as a way of life to thinking it to be unacceptable and shameful or even evil" [57].

Corruption in Nigeria is not just a matter of breaching the law. As Daniel Jordan Smith [58] put it, corruption defines the Nigerian state. It is an ideology of statecraft. He argues that corruption is as indigenous to the Nigerian political ecology as incompetence. Corruption is not a disease of governance in Nigeria. It is the logic of the Nigerian state. In other words, corruption is cultural. It is justified by norms that are socially affirmed. It is nurtured and reinforced by the mythical Nigerian factor: "a variable that everyone, from ordinary citizens to elite politicians, takes into account in all interactions with the state, but also in many other arenas of political, economic, and social life". The cultural determinism of corruption in Nigeria raises an important point: how do we deal with corruption in the context of its cultural grounding. If corruption is cultural in the sense that it acts like an ideological gravitational force compelling everyone towards some sort of generalized relationship with one another, is it more effective strategy to change *what we do* or change *what we are*? If we mainly focus on changing what we do, we resort to the law-enforcement centric approach. This approach has not worked. If we focus primarily on who we are and secondarily on what we do as a result of what we are or becoming, then we will mostly resort to institution and culture-centric approach in fighting corruption. The

suggestion here is that it is a more effective strategy.

Alina Mungiu-Pippidi [26] shows how distinction between a focus on what we are and what we do has defined anticorruption strategies of multinational institutions. In her view, many current strategies against corruption have derived from the latter worldview. This has resulted in a cottage industry of legal transplantation of formal legal institutions that have worked in the more advanced and less corrupt western countries. These institutions include "a constitutional court, some form of checks and balances, or an ombudsman" (p. 57). Nigeria has followed this path of institutional convergence. This is what Thandika Mkandwire [59] describes as 'institutional monocropping'. This approach is premised on 'doing what they are doing'. But, sceptics of this dominant worldview have argued in favor of the "cultural determinism of corruption and good governance". So, what matters is not what we do but what we are. Even if we transplant due process and accountability institutions in our polity but have not changed the character of the society we will still be stuck in pervasive corruption. There is now a favored middle road: what matters is not what the successful countries are doing now, but what they did in the past when they were at similar stages of development [60]. This approach does not focus exclusively on culture as much as on stages of development and what successful countries did to become less corrupt under monarchy, republicanism and representative democracy [26].

A winning strategy against corruption must get beyond legalism and embed laws and their enforcement within the context of cultural and institutional ecology of the society. Such a strategy should be rooted in the realism of social morality and the incentives that feed them. This means that if there is a culture of corruption, solutions should be targeted at cultural change. To change culture, we need to know the dimensions of culture that are deterministic and constitute the so-called 'Nigerian factor'. Features of culture included in the cultural explanation comprise norms, values, expectations, social habits, community competencies, etc. To anthropologists, culture is "that complex whole which includes knowledge, belief, art, law, moral. Custom, and any other capabilities and habits acquired by man as a member of society" [61]. This comes through socialization Culture would therefore represent the totality of a people's way of life, the sum of human relationships and interactions in a society. In other words, culture is expressed "through religion, language, institutions, and history". It shapes "a repertoire or 'tool kit' of habits, skills, styles from which people construct 'strategies for action'" [62, 63, 64]. Does this then mean that culture is everything, or as Augusto Lopez-Claros [62] observes, "it is intrinsically no different than a nation's generic endowment"? Of course, culture is not everything. But the challenge is knowing the aspects of culture that matter for anticorruption.

It is important to draw distinguish between moral norms and social norms. Moral norm "justifies the relevant normative principle, while social norm refers to the "presumed social practice" [65, 46]. The difference manifests in the reality that people often act contrary to the moral norms

because social norms better stipulate actions. Because actions are based mostly on reciprocity than rationality [66], social norms are more important for discourse of corruption than moral norms. Rothstein illustrates this distinction with parents who know that paying bribe for medical services is morally wrong but had to pay bribe for treatment of their children although they are morally upset. For such parents, social norms constrain them to pay bribe even as they are morally outraged. These norms could be likened to Peter Hall's 'standard operating procedures' or Paul Collier's 'social networks' [67]. [68]. Reference to society's culture in discourse of corruption relates more to the society's 'standard operating procedures' [69, 70]. Social norms are more important in anticorruption wars.

Douglas North has also pointed out another problem of fighting corruption. It is the problem of formalism. The insight from institutional economics about the vitality of institutions in economic and social development has led to the error of formalism where reformers have built formal institutions without considering the informal contexts in which those institutions operate. Because most of the least corrupt countries are strong democracies it is argued that low levels of corruption correlates to the existence of "formal democratic structures that facilitate citizen oversight and control" [49]. But North defines institutions to include formal and informal enablers and constraints of action. But, in Nigeria, we have embarked on building formal institutions of accountability without thinking about the informal institutions that underwrite the operations of the formal institutions.

How do we fight corruption as culture and institution? First, we need a good diagnosis of the problem of corruption. Why is corruption endemic in Nigeria? How is that despite several reforms, corruption remains unabated. To understand this, we look at the countries in the world that are least corrupt. They have different regime types. They do not have the same quality of leadership and social development programs. Some, like Sweden and Norway, have large public sector. But their divergent political systems are underwritten by a culture that discourages corruption and rewards integrity. They have been found to have "high levels of generalized trust, a large share of protestants, and little acceptance of hierarchy" [71]. The least corrupt countries also share open and universalistic values and identities that encourage and legitimize competition. Such culture allows transactions to be based on rules that are universally applied and therefore discourage under-the-table transactions [26]. Therefore, culture influences the development of institutions that constrain and enable behavior. We can argue that the least corrupt countries have different types of political institutions, but largely similar culture, at least in the sense of the ideal of ethical universalism and political accountability.

Clearly, 'culture' in the discourse of corruption does not necessarily refer to tradition or religion. It refers rather to the basic ideas and norms that define social interaction in a system. In term of public sector corruption this culture manifests in three leading sectors: politics, public service and public finance. Since politics is the recruitment process for public

leadership, its moral quality defines the character of the society. This is not a matter of rhetoric or moralizing. It is strictly a matter of incentives. A corrupt political process has largely driven corruption in Nigeria. This process culminates in a flawed and fraudulent electoral process. But it does not start there. It starts with the management of incentives and standard operating procedures.

## 6. Conclusion

Corruption has remained resilient in Nigeria. Anticorruption campaigns have not succeeded in making the country less corrupt. The primary focus of the war against corruption has remained law enforcement instead of how to change the incentive structure in partisan politics and standard operating procedure of public service. The President had the political capital to lead a transformation of politics. By a combination of body language, bully pulpit and reform of laws and procedures he could have reset the political culture and its institutional path-dependency such that a major incentive for public sector brigandage would have been minimized. This is the BIG BANG approach. Singapore, Hong Kong, Sweden and the United States could be said to have emerged from such a BIG BANG [49].

Winning the war against corruption starts with realism about corruption and the efficacy of law as instrument of social change. The point is not that stringent law and prosecution of corrupt practices do not matter. They do. But they are ineffective to change the mechanisms of reciprocity in the system that leads to collective action. Where corruption has become endemic like in Nigeria, legalism and formalism may misdirect attention from the normative frameworks and webs of reciprocity that constrain and enable behaviors. In such a society, ending corruption should become evolutionary to the extent that it mirrors how much a society is transformed in its basic social norms and values through collaborative or competitive political actions.

To conclude, we can take to heart the counsel of the authors of the Chatham House report on corruption in Nigeria: "Nigeria's entire system of anti-corruption laws and policies can operate more effectively if these are more deliberately premised on influencing collective behavior in a desired direction. Simply put, a careful understanding of the factors that drive relevant behaviours should be a critical component of government actions to reduce corruption" [39]. If government heeds this advice, we can expect that when President Buhari finishes his second tenure in 2023 he would not wish to come back to fight corruption because corruption would just be a manageable deviation from a culture of clean polity. Nigeria would then have got close to Denmark.

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