

POLICY BRIEF ON
THE IMPERATIVE OF EFFECTIVE
ETHICS FRAMEWORK IN COMBATING
CORRUPTION IN NIGERIA

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This publication has been produced with the assistance of the European Union under the project 'Support to Anti-Corruption in Nigeria' implemented by the United Nations Office on Drugs and Crime. The contents of this publication are the sole responsibility of the Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) and can in no way be taken to reflect the views of European Union or the United Nations.

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EXECUTIVE SUMMARY

This policy brief explores the various ethical standards, the role of ethics; and examines the imperatives of effective ethical frameworks as a strategy for combating corruption. A few codes of ethics are discussed with a view to drawing lessons to strengthen and reinforce the fight against corruption in Nigeria. The brief concludes ethical frameworks are a necessary complement for effective anti-corruption regimen and the effective enforcement of codes of ethics would bolster the fight against corruption. It therefore proffers recommendations to strengthen the ethical framework, especially in the public sector to prevent and combat corruption in Nigeria.

INTRODUCTION

The importance of effective ethical frameworks in combating corruption cannot be overemphasized because ethics is what distinguishes between what is morally wrong or right. Ethics can be defined as “the branch of philosophy that deals with moral principles”. And morality simply means “the principles concerning right and wrong or good and bad behavior”. Some scholars define ethics as “the science of interpersonal relationships in a society; a system of rationally justifiable principles that govern the behavior of people in a society, in a state, and indeed in the world”¹. In a nutshell therefore, we refer to ethics as rules of conduct and behavior, which relate to questions of right or wrong, good or evil. Ethical frameworks are moral codes of behavior that are established by a society, organization, individual, group or a country to protect their values.

Ethical codes are usually written down to protect values such as public interest, transparency, accountability, justice, impartiality, neutrality, responsiveness², etc. Whereas codes of ethics apply to both public and private sectors including professional bodies, codes of conduct on the other hand apply mostly to public officials. Both ethics and codes of conduct must have certain principles and aspirations. In other words, codes of ethics and conduct must be written to reflect fundamental principles of an organization, profession or corporate body, for example, the core values of that organization. The codes must also reflect the aspirations of the organization as stated in its vision or mission statement. For all practical purposes, the codes of ethics or conduct must be stated in clear, measurable and realistic terms.

Discussions on the problem of corruption have focused more on the public sector, obviously because that is where the risks and vulnerabilities of corruption are more pervasive and the impact more harmful. The private sector however, is not immune to corruption as evident by large-scale

¹ Michael O. Maduagwu (2016) “Ethics, Morals and Collective Responsibility for national Rebirth in Nigeria”, in Ikelegbe, A, et al (eds) Institutions, Development and Change in Nigeria, Institute for Security Studies, Abuja, P.71.

² Some are however, not written, yet effective depending on established rule of law and strong institutions.

corruption involving multinational corporations³. There is a nexus between public-sector corruption and private-sector corruption. However, the focus of this policy brief is on public codes of conduct and ethics.

STATEMENT OF THE PROBLEM

Although corruption is not peculiar to Nigeria, accountability is generally weak; political competition and civil liberties are often restricted; laws and principles of ethics in government are poorly developed and the legal institutions charged with enforcing them are ill-prepared. These factors among others, create conditions for corruption to thrive. There are a plethora of laws and codes of ethics and conduct in Nigeria, but they are not on their own, sufficient to effectively combat corruption without effective enforcement. Therefore, conditions for their effective enforcement, including exemplary leadership, reward and punishment, and dedicated personnel who enforce the codes are crucial. Jurisdictions that have largely succeeded in controlling corruption, including Hong Kong, Singapore, Botswana and Brazil, have shown that effectively enforcing codes of ethics in both public and private sectors is one way to restore discipline, enforce rule of law and ultimately prevent corruption. Thus the main thrust of this policy brief is to contribute to the narrative and policy debate on combating corruption using effective ethical frameworks.

AIM

The aim of this policy brief is to undertake an overview of ethical codes that can contribute to the eradication of corruption and highlight critical policy issues for action in that direction. It makes recommendations to improve the content of ethics framework and enhance the process of implementation in the anti-corruption context.

³ The Enron case and the prosecution of many private sector organizations like Halliburton, Siemens, just to mention a few, who were accused of corrupt practices in the United States of America are cases in point.

OVERVIEW OF CODES OF ETHICS IN NIGERIA

The sudden increase of global interest in the subject of (good) governance from the 1980s has been accompanied by rapidly growing concerns about the development of values, as well as ethical and behavioral standards in public service. These concerns have been fuelled by the escalating phenomenon of corruption and abuse of office by officials entrusted with public service at local, national and international levels. The concerns have therefore led to higher public expectations about the quality of public service delivery and the credibility of Holders of Public Office (HPOs). These concerns have reflected a general tendency towards higher expectations particularly in the areas of good governance, public performance, legitimacy, accountability, transparency and openness. In Nigeria, the overarching ideology for national ethics is derived from Part II Section 23 of the Constitution of the Federal Republic of Nigeria (1999) which states that: *“The National Ethics shall be Discipline, Integrity, Dignity of Labour, Social justice, Religious Tolerance, Self-reliance and Patriotism”*. It was more specifically elaborated in Part 1 of the 5th Schedule of the Constitution as the Code of Conduct for Public Officers.

Codes of conduct have become one of the most popular tools used in many countries and public institutions around the world for realizing this growing expectation. It is therefore important to know the extent to which the popularity of codes of conduct for public officials has been matched by their effectiveness. The questions to ask therefore are: what different templates of code of conduct for public officials exist? Have such codes helped in reducing corruption and abuse of office by public officials, and in shoring up public trust in government at all times and in all places? Under what conditions have they worked or failed to achieve their missions? What best practices exist that can be adapted and applied to the situation of endemic corruption and rampant misconduct by public officials in Nigeria?⁴

⁴ Shehu, A.Y (2010) “Experience Sharing: International Best Practice on Codes of Conduct”, Paper presented at the Code of Conduct Bureau Workshop for Public Officers in Nigeria.

The value of codes of ethics in regulating official and corporate behavior have long been recognized and many codes have been developed to promote integrity, transparency, accountability and good conduct, especially in the public domain. In order to illustrate the importance of codes of conduct or ethics in combating corruption in Nigeria, a few codes of ethics are discussed as follows:

A. THE CODE OF CONDUCT FOR PUBLIC OFFICERS

Established in 1989 under the *Code of Conduct and Tribunal Act* (Cap.56, Laws of the Federal Republic of Nigeria), the Code of Conduct Bureau (CCB) was created with the aim of establishing and maintaining a high standard of morality in the conduct of government business and ensuring that the actions and conduct of public officers conform to the highest standards of public morality and accountability. A tribunal was simultaneously established with the Bureau to ensure speedy trial of officials that may be referred to it by the Bureau⁵.

The Code of Conduct Bureau (CCB) administers the Code of Conduct for Public Officers and their functions include: (i) receiving asset declarations by public officers; (ii) examining the assets declarations and ensuring that they comply with the requirements of the Act and of any law for the time being in force; (iii) taking and retaining custody of such assets declarations; and (iv) receiving complaints about non-compliance with or breach of the Act and where the Bureau considers it necessary to do so, referring such complaints to the Code of Conduct Tribunal.

The most important and powerful aspect of this Act with respect to the prevention of corruption has to do with assets declaration by public officers which is a tool to track illicit enrichment. Precisely, Section 15 of the Act states that:

⁵ For details, see Shehu, A.Y (2015) NIGERIA: The Way Through Corruption to the well-being of a People, National Open University press, Lagos, pp.278-281.

- 1) *Every public officer shall, within fifteen months after the coming into force of this Act or immediately after taking office and thereafter*
 - a. *At the end of every four years;*
 - b. *At the end of his term of office; and*
 - c. *In the case of a serving officer, within thirty days of the receipt of the form from the Bureau or at such other intervals as the Bureau may specify ... submit to the Bureau a written declaration in the Form prescribed in the First Schedule to this Act or, in such form as the Bureau may, from time to time, specify, of all his properties, assets and liabilities and those of his spouse or unmarried children under the age of eighteen years.*
- 2) *Any statement in any declaration that is found to be false by any authority or person authorized in that behalf to verify it, shall be deemed to be a breach of this Act.*
- 3) *Any property or assets acquired by a public officer after any declaration required by subsection (1) of this section and which is not fairly attributable to income, gifts or loan approved by this Act, shall be deemed to have been acquired in breach of this Act unless the contrary is proved.*

In Nigeria, the asset declaration regimen combines mandatory declaration with sporadic and random verification. Reliable statistics on the enforcement of the code of conduct is hard to obtain. Nevertheless, progress report from the CCB in 2014 showed that it issued 303,911 Asset Declaration Forms (ADFs) and received (from returns) 167,241 with estimated 2,337 defaults. The CCB verified 67 of those. It also received 79 petitions/complaints on non-declaration; investigated 18 and closed 6 for lack of merit in the petitions. 39 cases were referred to the CCT, increasing the pending cases before the CCT to 371 for that year without a single reported conviction. The CCB also reported that it trained about 8,348 public officials under its compliance training

program which it uses to sensitize the officials on why and how to complete the ADFs⁶. Most of the cases of breach of the Code of Conduct by Politically Exposed Persons (PEPs) were either struck out or have been inconclusive at the Code of Conduct Tribunal.

The CCB, which has responsibility for enforcing the provisions of the Act, is besieged by many challenges and does not verify most of the assets declarations made by public officials. That is not to say the code of conduct itself is not adequate, rather, the main problem has to do with enforcement. One of the ways of ensuring adherence and enforcement is to have specific guidelines on elements of the Code such as Conflict of Interest Rules, Allowable circumstances for Gifts and thresholds. These will clarify the blurred lines on these issues for both public officers and the public. Had the code of conduct been effectively enforced, a number of corruption cases would have been prevented or exposed at an earlier stage, including the classic case of James Ibori, a former Governor of oil rich Delta State who was convicted in the UK. A further constraint with the implementation of the Code of Conduct for Public Officers is the fact that several key provisions have not been translated into actionable points leaving them inchoate. For instance, the CCB is yet to issue guidelines on what constitutes Conflict of Interest and Abuse of office; there are no thresholds for gifts and the size of farming activities a public servant may engage in.

B. CODE OF CONDUCT FOR JUDICIAL OFFICIALS

Concerns about ethical behavior, conflicts of interest and integrity issues have constituted a major focus of public sector reforms including the judicial sector. Broadly speaking, codes of conduct tend to regulate general ethical principles and are used widely for a number of conflict of interest issues. However, codes of conduct vary from country to country, and there are as many divergent codes as the number of political systems across countries and sectors within

⁶ Ibid, P. 281

countries. This functional variety and cultural uniqueness make classification extremely difficult. The Organization for Economic Cooperation and Development (OECD) has provided examples of the many different codes. The code of conduct for the United States Judges is different from, in many ways (and more detailed) than other codes for judges in EU member states. While the traditional literature distinguished between 'compliance-based' ethics regimes (relying on rules and enforcement), and 'integrity based' ethics regimes (focusing on self-instruments and codes), it has been shown that too many countries do not fit neatly into either of the two distinct categories⁷.

The Code of Conduct for Judicial officers, which applies to all categories of judicial officials throughout the Federation⁸ is another important code for the regulation of conduct and prevention of corruption in the public service in Nigeria.

Briefly stated, The Nigerian code of conduct for judicial officers has 3 basic rules. Rule one requires a judicial officer to avoid impropriety and the appearance of impropriety in all activities. Rule two covers Adjudicative and Administrative duties, which includes when a judge should disqualify himself from a case pending before him and waiver of disqualification in a matter; and Rule three deals with extra judicial activities. In short, it is a guide to minimize the risk of conflict with judicial duties⁹.

The principle behind this code of conduct is to ensure that Judges perform their functions with competence, integrity and independence as well as diligence.

⁷ Honourable Justice Yargata Nimpar, "Best Practice Models in Promoting Judicial Ethics, Judicial integrity and Rule of Law Within the Judiciary", A Discussion Paper Presented at a Regional program for Judges of Anglophone West African Countries on Corruption, Money laundering and terrorist Financing, Organized by the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), on 22-26 July, 2013 in Accra, Ghana.

⁸ A judicial officer can be any of the following: Chief Justice of Nigeria, a Justice of the supreme Court, the President or Justice of the Court of Appeal, the Chief Judge or the Judge of the Federal High Court of a State and the Federal Capital Territory Abuja, the Grand Khadi or Khadi of a Sharia Court of appeal of a State and of the Federal Capital Territory Abuja, the President or Judge of a Customary Court of Appeal of a State and of the Federal Capital Territory Abuja.

⁹ Ibid, p.4.

They are expected to behave with honesty and propriety both on the bench and in their private lives so as to inspire confidence in the community; and ensure avoiding any behavior that demeans their exalted office. The violation of this code of conduct attracts disciplinary action to be enforced by the National Judicial Council (NJC), which is the body responsible for the recruitment and discipline of judicial officers in Nigeria.

Information obtained during interviews for this policy brief revealed that the enforcement of the code of conduct for judicial officers has resulted in far reaching disciplinary actions taken against judges who breached the code. For example, 30 out of 47 judges indicted by the Kayode Eso Panel were sacked in 2001. Also, the enforcement of the code led to the dismissal and compulsory retirement of about 70 judges from 2009 to 2014. Additionally, 9 judges were removed from office in 2015 and 2016. In summary the total number judges sacked between 1999 and 2016 is put at 150.

Despite the perceived sluggishness in the disciplinary process under this code, it is one of most effective codes of conduct for public officials in Nigeria.

C. RULES OF PARLIAMENTARY PRACTICE

The National Assembly (NASS) in Nigeria is another arm of government with distinct rules of business. Although these are not codes of conduct per se, they are codes of ethics that regulate the behavior of elected officials. There is an Ethics Committee in the Senate and House of Representatives, as well as the respective State Assemblies for fair hearing and discipline of erring distinguished senators and honourable members. In recent times, the provisions of the rules of business have been invoked in the House of Representatives with the suspension of Honourable Abdulmunin Jibril and Senator Ali Ndume respectfully.

This also shows how effective enforcement of ethics can regulate the conduct of officials. These are just a few examples of codes of ethics in the public service. In addition to specific codes of conduct, the government has developed and published ethical codes, such as the Financial Regulations (FR), Public Service Rules (PSR), Terms and Conditions of Service (TACOS) and Standard Operating Procedures (SOP) in some Ministries, Departments and Agencies (MDAs) for effective and efficient conduct of public affairs.

Similarly, some public sector organizations have gone further to develop their individual code of ethics based on universal principles of accountability, transparency, public good, due process, public ethics, and public interest. These efforts and initiatives look good and are consistent with international trends in the fight against corruption. However, what is of concern here is the effectiveness of these initiatives in combating corruption in the country.

PRIVATE SECTOR EFFORTS IN CURBING CORRUPTION USING CODES OF ETHICS

In the private sector, there are several codes of ethics developed by various professional bodies. For instance, professional associations such as the Nigerian Bar Association (NBA); the Institute of Chartered Accountants of Nigeria (ICAN); the Nigeria Labour Congress (NLC); Trade Union Congress (TUC); Medical and Dental Council of Nigeria; Nursing and Midwifery Council of Nigeria; Pharmacist Council of Nigeria; etc., have developed well-articulated ethical frameworks with stringent provisions for sanctions on erring members. There is credible evidence suggesting that professional codes of ethics are imbibed and enforced, obviously because of the collective ownership and commitment to the ethics; and also the fear of sanction, which could lead to suspension, loss of professional practice license or other severe penalties.

Further, there are series of voluntary codes of conduct that companies and industries adopt to regulate their corporate behavior and business practices. All these efforts are aimed at preventing unethical practices and reduce incidences of corruption.

IMPLICATIONS

The implications of lack of effective enforcement of ethical codes and codes of conduct in combating corruption and unethical practices in public and private sector are legion. Suffice it say that the lack of effective ethical framework and efficient enforcement of the existing codes both in the public and private sectors has led to increased corruption, conflict of interest, impunity and breakdown of the rule of law.

As ethics promote the integrity and credibility of systems and institutions, the absence or insufficient enforcement of the ethics invariably leads to reduced confidence and trust in the business environment. Consequently, a country may lose revenues, investors and even donors' support.

The lack of enforcement of ethics creates risks and vulnerabilities for corruption. In financial institutions, it can lead to various forms of abuses, leading ultimately to insolvency or collapse. Criminals may penetrate such financial institutions to launder proceeds of crime and undermine national security. In addition, ineffective observation and enforcement of ethical codes reduces the opportunity for punishing infractions and consequent deterrent effect especially in an environment of protracted and complex prosecution of crimes. Administrative sanctions flowing from infractions of ethical codes where systematically applied, forms the necessary bridge between getting away with wrong doing and protracted criminal prosecutions and convictions.

CONCLUSION

It is obvious that there is a history of codes of ethics and codes of conduct in Nigeria in both the public and private sectors and professional bodies. However, while it is recognized that codes of ethics are necessary, they are not enough for the effective fight against corruption unless they are imbibed and enforced. The code of conduct for public officers has great potential for combating corruption, but the challenges confronting the Code of Conduct Bureau make its enforcement problematic. However, there are some successes in the use of the code of ethics in the judiciary and NASS to regulate the behavior of their officers. The problem therefore is not the development and evolution of ethics frameworks but compliance with the codes. As codes of ethics require certain conditions to be effective, leadership by example, appropriate deployment of the ethics, staff and organizational culture are necessary for effectiveness. It is on the basis of this conclusion that some recommendations are made below to strengthen the framework for ethics in the fight against corruption in Nigeria.

RECOMMENDATIONS

1. The Honourable Attorney General of the Federation and Minister of Justice should expedite action with the implementation of the National Anti-corruption Strategy which has ethical reorientation as one of its pillars. Codes need to be reinforced by an effective institutional implementation strategy and support from the highest level of political authority. Furthermore, the Nigerian regime needs to strive for a higher degree of transparency with regard to the private lives of HPOs.
2. The NASS should provide the regulation to make asset declarations by public officers accessible to the public as this will clarify the stance taken by the CCB.

3. Beyond training and education, HPOs should be supported with guidelines, advice and other information that will help them identify and disclose conflicts of interest as well as other key elements of the Code. One way to do this is to create the mechanism for responding to questions from HPOs and providing them with practical advice on the application of laws, rules and standards that govern their official conduct. The publication of *Ethics Manual* to assist HPOs with interpreting the codes may also provide a useful support.
4. The Code of Conduct Bureau should institute an Annual Ethics Forum to draw out and deliberate on challenges and emerging issues in the Ethics regime both in the public and private sectors to improve the discourse and generate knowledge products on the ethics infrastructure in the country.
5. There is need for increased public awareness on the importance of ethics in both the public and private sectors. Implementation and enforcement of code of conduct in Nigeria can be improved if greater cooperation and coordination are fostered among such critical public agencies as the Code of Conduct Bureau, the Code of Conduct Tribunal, the Nigeria Police Force, the National Orientation Agency, the Independent National Electoral Commission, inter alia.
6. The Code of Conduct Bureau should unpack elements of the Code and issue specific guidelines on issues such as Conflict of Interest, Abuse of office, Gift thresholds, and nature and size of farming activities in order to ensure clarity. The CCB should also institute a framework for monitoring compliance with the guidelines.
7. The Anti-corruption and Transparency Units (ACTUs) established by the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in MDAs should be strengthened to enforce ethical conduct in all public organizations.

8. The SERVICOM units in all MDAs should also be strengthened in same manner.
9. The whistle blowing policy of the federal government should be extended to states and local governments and further strengthened by the enactment of the Witness and Whistle-Blower Protection Bill before the National Assembly.

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