

The Constitutional Obligations of States to Fight Corruption in Nigeria: Kano State as a Role Model

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Abstract

Corruption simply connotes the abuse of public office for personal benefits and enrichment. The violation of formal rules relating to the allocation of public resources by public officials for personal financial gains or political support is also corruption. It is the biggest problem that undermines development of nations. In Nigeria Corruption is institutionalised, systemic and endemic. Several Committees set up on tackling corruption have proffered solutions but corruption keeps increasing and taking many forms. The need to address corruption and corrupt practices has featured in several provisions of the 1999 Constitution. Specifically, the Constitution mandates the Federal and States governments to strive to expose and abolish corruption and corrupt practices. The federal government drive in the fight against corruption is obvious. The paper doctrinally assesses the constitutional obligations of the federal government and the component states for fighting corruption. The findings reveal that out of the thirty-six States of the Federation however, only Kano State established an independent anti-corruption agency that has helped in curbing corruption, abuse of office or power and inefficiency in managing public funds. In view of the constitutional obligation of States for abolishing all corrupt practices and in order to complement the efforts of the Federal government led war on corruption, this paper recommends other States of the Federation to replicate the Kano State Model anti-corruption agency. This is not only necessary but desirable. The other States' readiness to establish similar agency will assist in combating corruption, ensuring public accountability, minimisation of waste and provisions of public good in their constituencies and Nigeria at large.

Keywords: Corruption, State, Obligation, Kano, Model, Role, Nigeria.

1.1 Introduction

Corruption is a multifaceted problem. It could be corruption simpliciter, economic or political corruption. Corruption simpliciter is the abuse of public office or public resources for personal benefits and enrichment. Political corruption occurs when formal rules governing the allocation of public resources are violated by public officials in return for financial gains or political support.¹ Economic corruption however, occurs where a public

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officer in discharging his official duties uses public office for private enrichment that is difficult for the public to understand.²

Corruption is a national embarrassment. It is a criminal offence that has eating into the fabrics of our psyche and our lives. Corruption is common denominator and more a problem in our public than private lives. Corruption is a great challenge to democracy and human rights protection.³ This much has been highlighted by the Supreme Court in the case of *Attorney General of Ondo State V. Attorney General of the Federation*. According to Uwais “corruption is not a disease which afflicts public officers alone but society as a whole.”⁴

Corruption is now cancerous,⁵ institutionalised, systemic and endemic. It affects the running of public institutions and influences our behaviours as citizens. We need to appreciate that corrupt practices as Stavros recently argued “are symptoms of a deeper problem in the relationship between state and society in general and in the function of democratic institutions in particular.”⁶

Corruption in Nigeria is number one problem second to none. Nigerians have suffered both at home and abroad from the menace of corruption. Nigerians and their Green passport are synonymous with corruption. Nigerians are often discriminated at Airports. Equally, opening bank accounts abroad has been a nightmare for Nigerians because of the crime of corruption. The Supreme Court acknowledged these facts in the *Attorney General of Ondo State V. Attorney General of the Federation*. According to the Court

In foreign countries, Nigerians are regarded and treated as corrupt people. Unlike other Nationals, no bank would allow Nigerians to open a Bank account as of right. The Nigerian Green Passport is synonymous with corruption. Consequently, at foreign airports, Nigerians with Green Passports are separated from other nationals. Nigerians are subjected to degrading and inhuman treatments and

¹ J.S. Nye, Corruption and Political Development: a cost-benefit analysis, (1967) (61) (2) American Political Science Review; ROBINSON M. (ed), Corruption and Development: An Introduction, Routledge, London 2004. Pg 24

² Bardhan, P., Corruption and Development: a review of issues, (1997) (35) (3) Journal of Economic Literature 1320-1346.

³ Stavros Katsios, Corruption as a challenge to Sovereignty, nd. 294

⁴ Attorney General of Ondo State v Attorney General of the Federation (2002) NWLR (Part 772), 222 at 306.

⁵ Ibid., at 385

⁶ Katsios S. Corruption as a Governance Challenge and the Role of Civil Society. Ovidius University Annals, Series Economic Sciences [serial online] (January 2016) (16) (1):192-197. Available from: Business Source Complete, Ipswich, MA. Accessed December 10, 2016.

treated as Pariahs on the grounds that they are Nigerians who hail from the most corrupt country in the world.⁷

Although security problem could be number one, but even security itself is not spared by corruption. The Dasuki Gate is instructive. In Nigeria, several Committees' reports proffering strategies and solutions to the government on how to tackle corruption abounds. These strategies appear to have failed as corruption keeps spreading that the Federal government alone cannot fight.⁸ This calls for concerted efforts by the States of the federation. This is because States' ability to combat corruption ensures public accountability, minimisation of waste and provisions of public good. From economic perspective, corruption is directly connected to governance. "Unethical leadership and bad governance"⁹ promotes corruption. Fighting corruption however, is the only way to guarantee economic development and good governance.

Fighting corruption, facilitates economic, political and security standing of nations. But fighting corruption is daunting. This is because corruption always fights back. Fighting corruption requires legal and institutional structures plus the political will and resolve. Although the 1999 constitution demarcated legislative powers into three that is those exclusive to the Federal Government, those shared between the Federal and States (concurrent) and others in the residual list, corruption is not in the exclusive list reserved for the federal government. In fact, constitutional provisions for the abolishment of corruption and waste in the country are not only directed at the Federal Government but also the states and even local governments.¹⁰ The Supreme Court in this regards stated that "state" used in section 15 (5) of the 1999 Constitution is not limited to federal government but includes states of the Federation.¹¹ In fact, nothing stops even the local governments from enacting bye-laws for addressing corrupt practices at the local government level.

No time is ripe for the establishment of the legal and institutional structures (as done in Kano State) for combating corruption especially at state level than now. Today grants from the federal government to States have plummeted. The Internally Generated Revenue is difficult to come by and is not much when compared to the petro dollars States hitherto received from the federation account. The little and scarce states' resources need to be prudently spent and state Anti-corruption agencies have a great role in this regard. The

⁷ Attorney General of Ondo State V. Attorney General of the Federation (2002) NWLR (Part 772), 222 at 337-339.

⁸ John Erero and Tony Oladoyin Tackling the Corruption Epidemic in Nigeria," in Corruption and Development in Africa Lessons from Country Case-Studies, eds. Kempe Ronald Hope, Sr and Bornwell C. Chikulo (Palgrave: Macmillan, New York, Publishing Company, 2000), 280

⁹ Kempe Ronald Hope, Sr and Bornwell C. Chikulo, Preface: Corruption and Development in Africa Lessons from Country Case-Studies, (Palgrave: Macmillan, New York, Publishing Company, 2000), x.

¹⁰ Section 15 (5) Constitution Federal Republic of Nigeria, 1999

¹¹ Attorney General Ondo State V. Attorney General of the Federation (2002) 9 NWLR (PT. 772) 222

Kano State government had foresight and enacted into law the Kano State Public Complaints and Anti-Corruption Law, 2008. The law has been amended in 2010. This is the first of its kind across the Federation. In the light of this and the constitutional obligation on states towards abolishing corruption and related offences, this paper seeks to examine the efforts of State governments in Nigeria in fighting corruption using Kano State as a model. The paper is structured into nine parts. Part two deals with constitutional directives on states to establish the legal and institutional structures to abolish corrupt practices. Part three, however, examines the initiative of both the Federal and Kano State as pace setters in the discharge of their constitutional obligation. The Kano example is in its enactment of a law establishing the Kano State Public Complaints and Anti-Corruption Commission (hereinafter referred to as the Commission). Because of the value of independence in the workings of anti-corruption agencies, part four examines the imperative for guaranteeing the independence of the agencies. Part five highlights the Kano State's approach in anti-corruption stakeholders' engagement in its anti-corruption strategy. Part six is on the establishment of the Kano State Anti-corruption Institute for training and research on anti-corruption in Kano State and the country at large. Part seven deals with role the commission played in dealing with diversion of palliatives during the covid-19 lockdown while part addresses the imperatives on other States of the federation to replicate the Kano State Model. Part nine contains the recommendation of the paper.

1.2 Constitutional Directives on States to Establish Structures to Fight Corruption

Corruption has been a Nigerian problem for decades a fact very well known to the drafters of the 1999 Constitution of the Federal Republic of Nigeria. Corruption and corrupt practices related issues featured in several provisions of the 1999 Constitution. Section 15 (5), Section 88, Section 128, Section 161, and Section 205 are instructive.

Towards eliminating all corrupt practices in Nigeria, the constitutional drafters included in the 1999 Constitution a section mandating states to strive in abolishing all corrupt practices. States are mandated under Section 15 (5) of the 1999 Constitution to abolish corruption in all ramifications. According to the Constitution it is an obligation placed on States to end all corrupt practices and abuse of power. In the words of the Constitution "the State shall abolish all corrupt practices and abuse of power." This is one of the fundamental objectives and Directive Principles of States Policy contained in chapter two of the 1999 Constitution to which all State governors are under oath to preserve.¹² The need and the urgency for states to act in line with the constitutional directive on abolishing corrupt

¹² The Oath of Office of Governor of a State contained under the Seventh Schedule "I, do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Governor of State, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; ..."

practices in section 15 (5) Of the Constitution was emphasised by the Supreme for about two decades in the case of *Attorney General of Ondo State V. Attorney General of the Federation*.¹³

Corruption and abuse of power must be checked otherwise peace, order and good government of the federation or any part thereof. The mandate of fighting corruption and the establishment of anti-corruption agency is not a matter exclusive to the Federal government. Little wonder that the Constitution uses the word state. Interestingly the Supreme Court in the case of *Attorney General Ondo State Vs Attorney General of the Federation*,¹⁴ opined that nothing stops States or even the Local Governments from establishing anti-corruption laws or agencies.

Specifically, and in relation to public funds, the Constitution charged the legislature at both the federal and states levels to strive in exposing and fighting corruption. On this Sections 88 (2) (b) and 128 (2) (b) in clear terms urge the National Assembly and State Assemblies to ensure in the exercise of their powers over public funds to prevent corruption, inefficiency and waste of public resources. Section 88 provides;

(1) Subject to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed investigation into -

(a) any matter or thing with respect to which it has power to make laws, and

(b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for -

(i) executing or administering laws enacted by National Assembly, and

(ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

(2) The powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to -

(a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and

¹³ *Attorney General of Ondo State V. Attorney General of the Federation* (2002) NWLR (Part 772), 222 at 385

¹⁴ *Ibid.*

- (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

Section 128 is the relevant Section in relation to States. The section is a verbatim reproduction of the above section. It only replaces the Federal Government with State Government and National Assembly the State Houses of Assemblies respectively. For emphasis purpose and considering the central focus of the paper on how States discharged the constitutional directives on them in exposing and abolishing corruption, waste and inefficiency as well as abuse of power, then it is imperative to explicitly provide section 128. The section 128 provides

- (1) Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the State to direct or cause to be directed an inquiry or investigation into -
 - (a) any matter or thing with respect to which it has power to make laws; and
 - (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for-
 - (i) executing or administering laws enacted by that House of Assembly, and
 - (ii) disbursing or administering moneys appropriated or to be appropriated by such House.
- (2) The powers conferred on a House of Assembly under the provisions of this section are exercisable only for the purpose of enabling the House to -
 - (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and
 - (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it. (emphasis added).

1.3 The Federal Government and the Kano State Government as pace setters

In the observance of constitutional obligations, the Federal Government of Nigeria and the Kano State Government have done remarkably well in establishing legal and institutional structures for fighting corruption and graft. Below are details of the pace setting efforts.

1.3.1 The Federal Government of Nigeria's Compliance with its Legal and Constitutional Obligation in Fighting Corruption

Nigeria is a signatory to several international treaties for combatting corruption. Signing or domestication of these treaties imposes an obligation on Nigeria. Implicit is the United Nations Convention Against Corruption among others. cursory look at the state of the legal and institutional structures so far and the political will demonstrated by the current administration Nigeria could be said to have done so well in meeting its obligation.

To start with, Nigeria has enacted the Economic and Financial Crimes Commission Act,¹⁵ the Independent Corrupt Practices and Other Related Offences Act,¹⁶ the Fiscal Responsibility Act,¹⁷ the Code of Conduct Bureau and Tribunal Establishment Act¹⁸ among others. It has recently bought in the Open Government Contracting and has put in place the National Anti-Corruption Strategy 2017-2020.¹⁹

From the institutional perspectives, the Federal Government has established the Economic and Financial Crimes Commission, the Independent Corrupt Practices and other related Commission, the Fiscal Responsibility Commission as well as the Code of Conduct Tribunal. In recent times, there was a federal government addition of the Nigerian Financial Intelligence Commission. The magnitude and widespread nature of corruption and related offences might be the reason for the enactment and establishment of several anti-corruption agencies at federal level.

Several other initiatives such as The Single Treasury commonly known as (TSA) abound. Although the federal government established the above agencies and they have not been adequately covered in the entire Federation. In fact, they are not in all the thirty-six states of the Federation. This is a flaw because corruption is not only at Federal level. It is at the States and Local Government levels. Going by statistics one can say that the bulk of cases prosecuted by EFCC and ICPC emanate from the state levels. The question to ask is, can the State Anti-corruption Agencies conveniently complement the role of the Federal Anti-corruption Agencies? The answer is in the affirmative.

1.3.2 The Kano State Example

The Kano State Public Complaints and Anti-corruption Commission as it is today started in 2005 as a Directorate under the office of the Secretary to the Kano State Government. The

¹⁵ Economic and Financial Crimes Commission (Establishment) Act, 2004

¹⁶ Corrupt Practices and Other Related Offences Act, 2000

¹⁷ Fiscal Responsibility Act, 2007

¹⁸ Code of Conduct Bureau and Tribunal Act, 1991

¹⁹ The office of the Attorney General of the Federation is the lead institution in charge of implementing the National Anti-corruption Strategy. <https://www.opengovpartnership.org/members/nigeria/commitments/NG0022/> (accessed March 23, 2021).

Directorate was in 2008 elevated to the status of a Commission by the Kano State Government through the enactment of the Kano State Public Complaint and Anti-corruption Commission Law No. 8, 2008.

From the title of the law, the law established an independent institution with dual role of ombudsman and anti-corruption agency. This contrasts with what obtains at the Federal Government. Unlike the federal arrangement, the Kano State Public Complaints and Anti-Corruption Commission possesses both civil and criminal jurisdictions. The civil aspect of the Commission is that of the ombudsman. In this regards, the Public Complaints Commission Act of the Federal Government was reproduced *mutatis mutandis* to establish Kano State ombudsman with little modifications. On the corruption angle, the provisions of the Independent Corrupt Practices and Other Related Offences Act 2000 were adopted *mutatis mutandis*. That is why the Kano State Public Complaints and Anti-Corruption Commission is framed with dual mandates. The above initiative of the Kano State government has recorded remarkable success in the fight against corruption in Nigeria. The score card of the current leadership is encouraging. Apart from ombudsman's role, the Commission has reawakened the sense of public servants in the state especially those disbursing and administrating funds and those who may likely want to abuse their office that it is no longer business as usual.

Towards a lowest to highest approach, the Commission unlike the federal anti-corruption agencies has a wider coverage. Apart from the Head office at No. 224 Sabo BakinZuwo Road, Kano, the government of Kano State committed towards fighting corruption and abuse of office, did establish offices in all the 44 local government areas. Investigation officers and other officers relevant to the work of an ombudsman and anti-corruption agencies have been and are being recruited to give teeth to the fight against corruption and to listen to the complaints of the general public. This is unprecedented in the federation.

1.4 The Imperatives for Guaranteeing the Independence of the Anti-corruption Agencies: The Kano State Example

Establishing State agencies or Commissions for fighting corruption is one thing and allowing them to perform their function independently is another. It therefore needs to be stressed that for the real fight against corruption, and for anti-Corruption agencies to function optimally, they need independence in their operations. They need not to be subjected to the direction or control of any authority or person. This is what independence of the agencies entails. The drafters of the Kano State Public Complaints and Anti-Corruption Commission (the Commission) appreciated the need to make the Commission independent. In this regards, Section 8 states that "in exercising its powers under this Law the Commission shall not be subjected to the direction and control of any authority."²⁰

²⁰ Section 8 Public Complaints and Anti-Corruption Commission Law, 2008 (as amended)

The legal implication of the above section is that neither the State House of Assembly that enacted the Kano State Public Complaints and the Anti-Corruption Commission Law nor the Governor who appoints the Executive Chairman respectively is empowered by law to interfere in the Commission's functions or decisions. In keeping to the spirit of independence, the paper argues that the administration of Dr. Abdullahi Umar Ganduje granted to and respected the independence of the Kano State Public Complaints and Anti-Corruption Commission. Evidence abounds. Sensitive cases involving Kano State cabinet members were investigated and prosecution has commenced. This paper found that the Governor with all sense of responsibility has not interfered. Commissioners and district heads alleged to have abused their offices violated the Kano State Anti-Corruption Commission Law and/or their oath of office as public servants have been arraigned before courts of competent jurisdiction. A serving Commissioner who is alleged to have violated and abused his office and a district head who is as well alleged to have abused his office in usurping the farm lands of poor Kano State citizens have accordingly been charged to court for several count of charges.²¹ The Kano State Governor could interfere but in the spirit of independence of the Commission, never interfered.

Other sterling examples of the independence of the Kano State Public Complaints and Anti-corruption Commission works include the staff audit of Universal Education Board at GidanMalamai. Several non-existing (ghost) workers were found and eventually removed from the government's pay roll. The sanitization and ascertainment of genuine market stall claims by Yan Tebura in Kwari Market and the several complaints in KofarWambai Market are some of the great works of the Kano State Anti-corruption Commission.²²

1.5 Stakeholders Engagement in Anti-corruption: The Kano State Approach

1.5.1 The value of Youth Involvement in Anti-corruption

To start with, Nigeria is a country with a lot of youth's population. The youths at the moment, are the greatest losers to graft and looting of public treasury. When the treasury is looted fund for education and health for instance are drained into private pockets. The youth are then denied meaningful education and empowerment. As such corruption is more a concern to the youths than any segment of Nigeria's population. This because available statistics shows that the youth in Nigeria constitutes the largest proportion of Nigeria's population.²³

²¹ Case no K/222/2016 and Case No. K/222C/2016.

²² The lead author was involved in the investigation and handling some of the complaints submitted to the Kano State Public Complaints and Anti-corruption Commission. Additionally, the lead author prosecuted some of the civil cases such as Suit No. K/ 355/2017 before the Kano State High Court.

²³ United Nations Population Fund (UNPFA), Population: Data overview, <https://www.unfpa.org /data/NG> (accessed March 23, 2021).

The youth's populations in schools are a great asset for the anti-graft war and awareness. No matter how long it takes, these teaming youth will be the pilots of the affairs of the nation and the guardians of public finance and public trust. The Kano State Public Complaints and Anti-corruption Commission has initiative in the creation and nurturing of School based Anti-corruption initiative across the state. This is an inclusive approach that is unrivalled in the entire Nigerian Federation and step in the right direction. This is so because the youths in the schools are the future of Kano and Nigeria. Instilling anti-corruption, openness and accountability in the Youth today will benefit Kano in the nearest future.

Experiential evidence reveals that some or most of corrupt political leaders today when you dig deep were corrupt student union leaders. Some were student executives others were parliamentarians. Some misappropriated funds donated to the association for the good of all members of the student body. There were and are cases of student misappropriations of funds sourced in the name of Associations. This has serious consequences. Without initiatives such as the Kano State Public Complaints and Anti-corruption Commission, students who are all youth generation will convert unionism and/student life as corruption breeding ground and the beginning of development of corrupt minds and the desire to steal big once such persons are entrusted with public trust in later life. It is therefore submitted that the initiative to enlighten kleptomaniac youth leaders from the dangers corruption pose to their life and the society is well thought out one.

1.5.2 Involvement of the Rural Populace in Anti-corruption Drive

Looking from the other perspectives, especially as it relates to the distribution of Nigeria's population rural areas are far more than the urban areas. Although the control of resources is more in the city, there are equally pressing needs for the involvement of the grassroots especially the rural areas. This is more evident considering Kano State. There are only 8 metropolitan local governments out of 44.²⁴

Grassroots involvement is an important initiative in checking graft in Nigeria. This position is supported by the reality of the fact that development projects such as roads, culverts, hospitals, schools and a host of other infrastructure are constructed in the villages and other rural areas. With grassroots involvement there will be accountability and compliance with building standards in the execution of projects. We are all living witnesses that government contracts are shabbily executed below the standards requires. The Kano State Government in the discharge of its constitutional duties of exposing corruption has in place in the 44 Local Government Areas of Kano State Local Government offices. This is taking the anti-corruption fight to Local areas for good governance and accountability and for the common good of Kano State and its populace. With anti-corruption clubs and organization at the

²⁴ The Local Governments include Nassarawa, Tarauni, Fagge, Gwale, Ungogo, Kumbotso, Kano Municipal, Dala and Dawakin Kudu. See also the Kano State Urban Planning and Development Agency Law, 2011 and the online map of Kano State Government covering its 44 Local Governments.

rural levels and the presence of the Kano State Public Complaints and Anti-corruption Commission in all the 44 Local Governments, Kano State stands out as the first among equal second to none in the fight against corruption in Nigeria.

1.6 Establishment of Kano State Anti-corruption Institute for Manpower Development

Kano State government did not only stop at the establishment of a Public Complaints and Anti-corruption Commission. Today, only Kano State has an established Anti-corruption Institute fashioned out of the Independent Corrupt Practices (ICPC) Academy in Keffi, Nassarawa State and the Economic and Financial Crimes Commission (EFCC) Academy in Karu Abuja Nigeria.²⁵

The Kano State Anti-corruption institute was established by the Kano State Government in July 2020.²⁶ It is a new and the only sub-national institute on anti-corruption in Nigeria. Prior to its establishment, the staff of the Kano State Public Complaints and Anti-corruption Commission had to go to either the ICPC or the EFCC Academy mentioned above.

The institute was established to assist Kano State Government in the realisation of its quest and vision of enhancing the quality of manpower of the Kano State Public Complaints and Anti-corruption Commission, the manpower from the various Kano State Ministries, Departments and Agencies as well other personalities from various sectors on how to address the menace of corrupt practices for the overall economic development of Kano State and the nation at large. This initiative is unrivalled and fetched the executive Governor of Kano State Governor, Abdullahi Umar Ganduje, accolades from many stakeholders in the anti-corruption cycle. One of such was from Chairman of the African Centre for Transparency and Anti-Corruption Advocacy. According to the Chairman, the establishment of the Kano State Anti-corruption Institute “is a gesture that needs to be appropriately acknowledged.” The Chairman added that

Kano state will remain indebted to the administration of Dr. Abdullahi Umar Ganduje, for establishing a state-owned agency to fight corruption. We commend the governor for

²⁵ AuwaluSani, JD Usman emerges provost of Kano Anti-Corruption Institute, <https://www.dateline.ng/jd-usman-emerges-provost-of-kano-anti-corruption-institute/>

²⁶ Bashir Bello, Kano Anti-corruption institute to take off soon — Chairman, The Vanguard, July, 7, 2020. <https://www.vanguardngr.com/2020/07/kano-anti-corruption-institute-to-take-off-soon-chairman/> (accessed July 7, 2020); Fanenlhyongo, Ganduje approves establishment of anti-corruption institute in Kano, The Nationonline, July 15, 2020. <https://thenationonlineng.net/ganduje-approves-establishment-of-anti-corruption-institute-in-kano/> (accessed July15, 2020)

also entrusting the agency in the hand of the most appropriate person to guide its affairs.²⁷

The establishment of the Kano State Anti-corruption institute is an indication of the weight and importance that the Kano State Government places on the fight against corruption and assurance of good governance and improvement of the quality of manpower of the Kano Anti-corruption Commission and staff of other MDAs in the area of fighting graft.

1.7 Taming the Diversion of Palliatives: The Kano State Public Complaints and Anti-corruption Agency and the COVID-19 Pandemic

At the heat of the Corona virus pandemic (aka COVID-19), governments across the globe were forced to quarantine people to their houses through the lockdowns of the cities and the economies. Governments had to come up of with palliatives in terms of food and basic medical supplies to cushion the effect of the pandemic. Good and humanitarian these gestures were, evidence abounds of diversion of these palliatives amidst the COVID-19 pandemic. Government Ministries, agency at both Federal, state and local governments have been found wanting in the handling of the COVID-19 palliatives.²⁸

The case of the Niger Delta Development Commission (NDDC) is instructive. The N6.25 approved by President MuhammaduBuhari as COVID-19 palliatives for the indigent people of Niger Delta was allegedly diverted by the Interim Management Council (IMC) of the NDDC. This allegation was made by the NDDC Chairman Palliative Distribution Committee Mr. High Chief Sobomabo Jackrich in his petition to the leadership of the National Assembly. In his petition he was quoted saying

The N6.25bn that was magnanimously approved by Mr. President to help the poor and the indigents of the Niger Delta during this difficult period of the COVID-19 pandemic as palliatives has curiously been allegedly misappropriated and embezzled by the IMC of the NDDC and its co-conspirators.²⁹

²⁷Fanen Ihyongo, Ganduje approves establishment of anti-corruption institute in Kano, The Nation online, July 15, 2020. <https://thenationonlineng.net/ganduje-approves-establishment-of-anti-corruption-institute-in-kano/> (accessed July15, 2020)

²⁸Nasir Ibrahim Covid-19: Police Recover diverted Benue Palliatives in Kano,” Premium times, September 10, 2020; Bashir Bello, Covid-19: Ni Mercy for LG. Chair found diverting palliative items, Kano Anti-Graft Agency warns,” Vanguard, May 11, 2020; Mike Odigwu, Okodili Ndidi, NDDC’s N6.25b COVID-19 palliatives diverted, says top official, The Nation, August 4, 2020. <https://thenationonlineng.net/nddcs-n6-25b-covid-19-palliatives-diverted-says-top-official/> (accessed August 5, 2020)

²⁹Adamu Abuh and John Akubo, “Panel alleges diversion of N6.2b palliatives for Niger Delta by NDDC,” The Guardian, August 5, 2020. <https://guardian.ng/news/panel-alleges-diversion-of-n6-2b-palliatives-for-niger-delta-by-nddc/> (accessed August 5, 2020); Mike Odigwu, Okodili Ndidi, NDDC’s N6.25b COVID-19

The petition added that

No single kit or COVID-19 test centres was set up by the Commission in the Nine Niger Delta States till date. It is for the records that I state these facts. The money for palliatives approved by Mr. President was corruptly diverted by the IMC B powerful forces and so cannot be accounted for.

There were further allegations that even the little distributed for political patronage in the name of the COVID-19 palliatives were food that were spoilt and unwholesome. Jackrich described this act as a “show of shame and a scam.”

The palliatives earmarked for indigent and the needy in Benue State were not spared. The Kano State Police Command reportedly recovered 1,958 Cartons of noodles suspected to have been diverted from Benue State’s portion of the Covid-19 palliatives.³⁰ Recall that individuals, government and private organisations did donate towards the pool of palliatives for distribution to the needy during the COVID-19 pandemic.

In Kano too, a Local Government Council Chairman- Kumbotso Local Government to be precise was arrested and charged to court for mismanaging of COVID-19 palliatives meant for the poor in his Local Government by the Kano State Public Complaints and Anti-corruption Commission. The case against the Chairman was abuse of power in the distribution of forms and the eventual distribution of the COVID-19 palliatives. The Chairman distributed to law enforcement agents the palliatives meant for the poor and indigent in his Local Government Council. Instead of the poor, the Chairman chose police officers, staff of the DSS, the Nigerian Immigration Service and Hisbah Corps.³¹

The above event was to serve as deterrence to other government officials and political office holders. This is because following series of complaints across the 44 Local Governments of Kano State of similar diversions of palliative materials meant for the indigent to cronies and political associates, the Chairman of the Kano State Anti-corruption Commission’s had to warn that any Council Chairman found diverting such palliatives or any government intervention will face the full wrath of the law.³²

palliatives diverted, says top official, The Nation, August 4, 2020. <https://thenationonline.net/nddcs-n6-25b-covid-19-palliatives-diverted-says-top-official/> (accessed August 5, 2020).

³⁰Nasir Ibrahim, “Covid-19: Police Recover diverted Benue Palliatives in Kano,” Premium times, September 10, 2020. <https://www.premiumtimesng.com/regional/nwest/413519-covid-19-police-recover-diverted-benue-palliatives-in-kano-official.html> (accessed September 10, 2020).

³¹ Bashir Bello, “Covid-19: No Mercy for LG. Chair found diverting palliative items, Kano Anti-Graft Agency warns,” Vanguard, May 11, 2020. <https://www.vanguardngr.com/2020/05/covid-19-no-mercy-for-lg-chair-found-diverting-palliative-items-kano-anti-graft-agency-warns/> (accessed May 12, 2020).

³² Ibid.

1.8 The Call to Respective State Governments

The directives to stem the tide of corruption are not directed at Kano State Government alone. It is the constitutional responsibility of all states government. It appears that States are lagging behind in creating special legislation and establishing relevant agencies to tackle corruption and other forms of human right abuses as obtained at the Federal level. Kano State is an exception. It has in place a Public Complaints and Anti-Corruption agency. This is not obtainable in any state of the federation.

Other States are therefore enjoined to replicate the Kano State Model. States can establish as in Kano a commission with dual mandate. Alternatively, the States can establish anti-corruption agency without necessarily combining a dual role of the ombudsman and anti-corruption. This is not only necessary but desirable because corruption is not only at the Federal level but also widespread at both the state and local government levels. The recent detection of about 1,300 ghost workers in Kano State by the Kano State Public Complaints and Anti-Corruption Commission is instructive. Establishing State anti-corruption agencies will boost the federal government derive in addressing the monster corruption that pervades all the strata of our public lives. The call to State governments for the establishment of Anti-corruption agencies is for the promotion of accountability and transparency in the management of public funds and the entire conduct of public affairs in their respective States. This will entrench high standards of probity, minimise waste and efficiency in governance. The call for initiatives similar to the Kano State Model becomes imperative as the Federal Government alone cannot address the cases of corruption at states' level. The Federal Government's effort needs to be complemented by the States.

Additionally, States' anti-corruption agencies are required in the sense that a cursory look at the fact that the bulk of Nigerian legislation on crime generally focuses on the States. Therefore, State anti-corruption legislation such as the Kano State Public Complaints and Anti-corruption Commission Laws are constitutional exercise of the Kano State House Assembly powers in line with the Federal Government mandate. It will therefore not be out of place for other States to legislate on corruption. This position was endorsed by the Supreme Court in *AG Ondo V. AGF and 35 Ors. supra*. According to the court "it is argued that 60% of the criminal legislations in Nigeria are created by the laws of the state Houses of Assembly since crime is local in nature and in line with the federalist system of the country."³³

In view of the above, some states of the Federation consider the Kano State initiatives and hoped to establish a state anti-corruption agency. Recently, the Oyo State Government followed the example of Kano State in the establishment of the second sub-national anti-

³³ Supra Note 13.

corruption agency.³⁴ Jigawa State too has reached advanced stage towards the establishment of the Commission.³⁵ Other states such as Lagos State are considering the possibility of establishing similar commission.

1.9 Conclusion

Structures and policies put by State governments are indicators of how democratic, transparent and open such governments are. It portrays rule of law especially in handling of state resources. In the words of Stavros “Indeed the ability to fight corruption and the degree of prevalence of corruption has often evolved to a pivotal criterion for the evaluation of the democratic, transparent and open character of every national regime and an assessment tool of the rule of law in each country.”³⁶ The establishment and the reinvigoration of the Kano State Public Complaints and Anti-Corruption Commission is a reflection of the character of the present administration of transparency, accountability, control of waste and draining of scarce resources into the pockets of a few against the interest of the State. With the establishment of the Kano State Public Complaints and Anti-Corruption Commission, Kano State government couple with the successes record by the Commission, the paper argues that Kano State has discharged its constitutional mandate of exposing corruption, inefficiency and waste in the execution or administration of laws, and in the disbursement or administration of public funds. In this direction, this paper calls on other States of the Federation to act in the light of the constitutional obligation by establishing similar institutions in their constituencies. The agencies to be so established must be made independent from the control of any authority or person. There is no better time to do so than now as the scarce States’ resources must be spent prudently. More so, the federal government alone cannot fight corruption. Establishing the legal and institutional structures by States of the Federation like in Kano State will complement the efforts of the federal government in fighting corruption.

³⁴ Ayodeji Adeboyege, Makinde establishes anti-corruption agency, Premium times, <https://www.premiumtimesng.com/regional/ssouth-west/340196-makinde-establishes-anti-corruption-agency-in-oyo.html> (accessed July, 13, 2020).

³⁵ Recent engagements and discussions with the Attorney General and Commissioner of Justice confirmed the commitment of the Jigawa state Government towards the establishment of the Commission in 2021.

³⁶ Stavros Katsios, Corruption as a challenge to Sovereignty, nd. 294