



INNOVATIVE APPROACHES IN COMBATING CORRUPTION: AN EXAMINATION OF THE ANTI-CORRUPTION AND TRANSPARENCY UNITS IN MDA (S) IN NIGERIA

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Abstract

The fight against corruption has proven to be very expensive and preventing it is cheaper and more effective. The setting up of the Anti-Corruption and Transparency Unit in the various ministries, departments and agencies (MDAs) of government in Nigeria is a response to the call for new and better ways of combating corruption in public service. Corruption as practiced in MDAs in Nigeria is a complex web and it will take an insider who understands the weaknesses inherent in the system that allows such corrupt practices to fester to be able to identify such weaknesses and review the system or otherwise carry out investigations that will expose corrupt

persons. This work interrogates the effectiveness of this Unit and posits that though the initiative has great potentials in combating corruption in MDAs, the present procedure for the composition and funding of the Unit presents conditions that suffocate these potentials and will ultimately kill the initiative. The work recommends true independence of the Units from their parent MDAs in terms of security of their appointments as public officers and in funding of the Units as the way out of the present quagmire the Unit is in.

Key words: Corruption, Public service, MDAs

1.1 Introduction

Corruption in Nigeria is endemic. It has eaten deep into the fabric of the Nigerian society such that it is safe to say in many respects that it has become the norm.² Those who have been entrusted with public funds have over the years in the life of the nation abused the trust and plundered the collective resources for their personal gains. The gravity of the looting of public funds is so outrageous that twenty-two years after the death of a former Head of State of Nigeria, monies that he is said to have allegedly stolen are still being recovered.³ Needless to say that it has affected every sphere of the Nigerian Society ranging from, the educational sector, health sector, infrastructural developments, justice sector, and religious institutions. Decades of corruption in Nigeria had led to economic recession, high unemployment rates, poverty, near collapse of public educational systems, pollution of cultural and moral values and general indiscipline in the society. It has been said that, "... corruption continues to be considered the main barrier to foreign investment, inclusive growth and poverty alleviation in Nigeria".⁴ Corruption is arguably one of the greatest challenges to national development in Nigeria.⁵

What the term corruption means has no universally accepted definition. The

- 2 This opinion is also shared by Olaleye-Oruene T. *Corruption in Nigeria: A Cultural Phenomenon*, Journal of Financial Crime 1998 Vol5 No 3 pp 232-240 at p. 232 available at <https://doi.org/10.1108/eb025836> accessed on 6 August, 2020, Igiebor G.O. *Political Corruption in Nigeria: Implications for Economic Development in the Fourth Republic*, Journal of Developing Societies 35, 4 (2019) 493-513. Available at <https://journals.sagepub.com/doi/full/10.1177/0169796X19890745> accessed on 6 August 2020.
- 3 Nwabughio L. *Abacha Loot: How Much did the Late Head of State Steal?* Available at <https://www.vanguardngr.com/2020/03/abacha-loot-how-much-did-the-late-head-of-state-steal/> accessed on 29 May 2020.
- 4 Oluokun F. *Corruption Risk Assessment and Integrity Planning: Preventive Measures to Addressing Corruption in Nigeria*, (UNDP Nigeria, 2016, 11) available at www.undp.org/content/dam/nigeria/docs/gov/corruption%20risk%20Assessment_Nigeria_2016.pdf accessed on March 7 2020.
- 5 Dania, P.O., Emuebie, J.E *Social Studies Education in the 21st Century a Tool for Fighting Corruption in Nigeria* African Research Review 2012, Vol 6(2) No 25, pp 181-191.

Corrupt Practices and Other Related Offences Act defines corruption to include acts such as bribery, fraud and other such like offences.⁶ Corruption has also been defined as abuse of trust, abuse of public office for personal gain.⁷ It is the exploitation of a system for undeserved advantage. These definitions encompass a whole range of acts including nepotism, bribery, embezzlement, extortions, collusion, unethical business practice, influence peddling, etc.

In the last twenty years the government had taken many laudable steps to stem this menace. These include the setting up of the Independent Corrupt Practices and Other Offences Commission (ICPC), the Economic and Financial Crimes Commission,⁸ and the Due Process Office. These institutions add to existing ones such as the Code of Conduct Bureau. There are also pieces of legislation put in place to help the anti-corruption bodies effectively fight corruption. Examples of such laws are the Code of Conduct for public Officers,⁹ Corrupt Practices and Other Offences Act, Economic and Financial Crimes Act, the Money Laundering Prohibition Act 2012, the Public Procurement (Amendment) Act 2017, the Administration of Criminal Justice Act 2015, the Criminal Code¹⁰, the Penal Code¹¹ and various codes at the state levels criminalizing corruption and corrupt practices. The establishment of these bodies and laws has somewhat increased public attention to anti-corruption strategies and mechanisms.¹²

- 6 Section 2 of the Corrupt Practices and Other related offences
- 7 Bako G.N. *Legal and Institutional Framework for preventing and Combating Corruption* being a paper presented at a workshop on Data Collection and Investigative Skills for Corruption Prevention in MDAs for ACTUs held between 6-8 June 2017.
- 8 Economic and Financial Crimes Commission (Establishment) Act Cap E1 Laws of the Federation of Nigeria (LFN) 2004.
- 9 Fifth Schedule to the 1999 Constitution of the Federal Republic of Nigeria as amended.
- 10 Cap C38 LFN 2004.
- 11 Cap 89 Laws of Northern Nigeria 1963.
- 12 Ladan M.T. *The Role of the Administration of Criminal Justice Act, 2015 in the Trial of Corruption Cases in Nigeria*, being a presentation made at the Bayero University Kaduna State Law Students Association, Bayero University, Kano, Faculty of Law

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To deal with the pervasive nature of corruption in Nigeria requires the collective involvement of all so as to stem the tide of corruption in Nigeria and particularly in the public service in Nigeria. Corruption perpetrated in Ministries, Departments and Agencies (MDAs) is in the most part systemic and usually thrive on weaknesses and loopholes in the system. The anti-corruption bodies have long realized that investigating and prosecuting persons for corruption is very expensive and time consuming. It is easier and more effective to prevent corruption than to prosecute persons for corruption and recover proceeds of corruption. The ICPC needed to come up with an innovative approach to prevent and investigate corruption in MDAs.

Due to the fact that corruption in MDAs is in the most part systemic, it requires in-depth knowledge of the internal operation of these MDAs and how their day-to-day running breed corruption to effectively tackle it. How can the anti-corruption bodies accomplish the task of understanding the internal operations of the MDAs and be able to discover the weaknesses in the system that allows corruption to fester and proffer solutions to address such weaknesses? The issue of the know-how of the operations of an organization is not only a function of the expertise in a particular field but also about familiarity with the day-to-day workings of such entities. The most appropriate persons therefore to fit into this description are persons working in such establishment. In the words of the ICPC, those working directly in the running of MDAs should have a better understanding and ability to discover causes and fertilizing agents of corruption within such MDAs.¹³

The ICPC came up with the initiative of having a unit in every MDA. However, the unit will not be made up of officers from the ICPC but by members of Staff of the MDAs where this unit will be established. The rationale behind this was that the officers' work in each of these establishments and as such understand their operations and are in a good position to identify the system failures that allow corruption to be perpetrated and can undertake system reviews to address them. An approach of fighting corruption in MDAs that incorporates the staff of these MDAs becomes paramount. This led to the birth of the Anti-Corruption and Transparency Unit (Unit). The Unit operates as an extension of the ICPC in every MDA where they are present. Although it is mandatory for every MDA at the federal level to have established in it the Unit, the same cannot be said of the states in Nigeria.

This laudable initiative has great potentials to bring corruption in the MDAs to the barest minimum and have recorded some successes but in the main has not been able to utilize its full potentials in preventing and fighting corruption.

This work posits that the reason for this rests squarely on two factors, namely, the mode of funding of the Unit, and the control factor over the members of the Unit by the management of the MDA where they operate.

The remaining part of this article is divided into four segments. The first segment looks at the legal foundation for the operation of the Unit. The second segment examines the functions and powers of the Unit and the successes recorded. The third segment interrogates the reasons why the Unit has not achieved

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its full potentials. The concluding segment presents a conclusion which summarizes the author's observations and recommends the way forward.

2.1 Legal Foundation for the Operation of the Anti-Corruption and Transparency Unit

The Independent Corrupt Practices and Other Related Offences Commission (ICPC) was established in Nigeria for the purpose of investigating and prosecuting persons alleged to have been involved in corrupt practices.

Section 6 of the Corrupt Practices and Other Related Offences Act 2000 empowers the ICPC to carry out specific functions. First, the statute empowers the ICPC to receive and investigate any report of conspiracy to commit corruption or the commission of corrupt practices. Secondly, the ICPC can carry out or supervise the carrying out of system review in public bodies which the commission finds out that such system facilitates fraud or corruption. Thirdly, the ICPC is empowered to instruct, advise or assist any officer of a public body on ways of minimizing or eradicating corruption and related offence from their establishments. The anti-corruption body can also advise heads of public entities on contemporary practices, systems and procedures that are compatible with the efficient discharge of the duties of such public entities and have the capacity to reduce the incidence of bribery, corruption and related offences. The ICPC is also mandated to educate the general Nigerian public about corruption and corrupt practices and its implication on nation building. Lastly, and very germane to this work is that the graft body is enabled to enlist and foster public support in helping it to combat the venomous vice called corruption.

The ICPC in carrying out its mandate and in line with the extant laws sought for approval to enlist public servants to help in the task of curbing corruption in the public service. The Federal Government of Nigeria gave approval to the ICPC to set up in every MDA in the country an Anti-Corruption and Transparency Unit (Unit).¹⁴ The mandate of the Unit was to complement and strengthen the efforts of the ICPC in the areas of monitoring, reporting and preventing corruption in the various MDAs where they operate.¹⁵ As such, the power to establish the Unit is conferred on the ICPC by the Corrupt Practices and Other Related Offences Act, 2000. With the above stated provisions, it is clear that the Unit has legal backing for its operations. Although the Unit is not directly a creation of statutes, the power of the ICPC to operate such a Unit having been derived from statute, it can be argued that the Unit has legal backing for its establishment and operations because section 6 (f) of the Corrupt Practices and Other Related Offences Act, 2000 empowers the ICPC to enlist public support in combating corruption. The setting up of the Unit is a form of enlisting the public to combat corruption.

In addition, the Chairman of the ICPC is, by section 7 and 70 of the Corrupt Practices and Other Related Offences Act 2000, empowered to make Standing Orders and Rules respectively for giving effect to the provisions of the Act. Based on these provisions, the Chairman of the ICPC made the Standing Order for the operations of the Unit.¹⁶ The Standing Orders provide for the powers and functions of the Unit, its status,

¹⁴ By Circular Ref. No. OHCSF/192/94 dated 2 October 2001 and Circular Ref. No. OE/MS/MO/196/S/7 dated 16 April, 2003.

¹⁵ Gold F. "Establishment, Impact and Challenges of Anti-Corruption and Transparency Unit" available at <https://icpc.gov.ng/2018/03/05/establishment-impacts-and-challenges-of-anti-corruption-and-transparency-units-actu/> accessed on 6 January 2020 at 3:59 pm.

¹⁶ The extant Standing Order being the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014 which came into effect on the 1st of January 2014.

theatre held on Saturday, 4 June 2016.

¹³ Gold F. *Impacts and Challenges of Anti-Corruption and Transparency Units* available at <https://icpc.gov.ng/2018/03/05/establishment-impacts-and-challenges-of-anti-corruption-and-transparency-units-actu/> accessed on 6 January 2020 at 3:59

the composition and appointment of members of the unit, the tenure of members, protection mechanism for members and informants, funding of the unit, meetings and reports of the unit. These will be discussed in the segment of this work. Within the scope of this work, only the status, composition and appointment of members of the Unit, the functions of the Unit, and the funding of the Unit will be discussed.

2.2 The Status of the Unit

By regulation 3.1-1 of the Standing Orders, the Unit shall operate in each organization as an autonomous outfit with functional linkage with the office of the Chief Executive of the respective establishment. In addition, the guarantee for the independence and protection of the Unit rests on the MDAs where the Unit is operating. The Unit is to operate independent of the management of the MDAs in which they are operating. In carrying out their functions, they do not need the consent of the chief executive officer. They can investigate any allegation of corrupt conduct and carry out system review of any department independently without recourse to the management of the MDAs. The efficacy of this autonomous status will be interrogated subsequently in this article in conjunction with other parameters of the Unit's operation.

2.3 Composition and Appointment of Members of the Unit.

The Unit is made of a Chairman, a secretary and such number of other members as the size, peculiarity or complexity of a particular MDA may accommodate. However, in any case the membership of the Unit shall not be less than five.¹⁷

17 Regulation 4.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

The head of the Unit, who is referred to, as Chairman, must be an officer of Management Level not being less than Grade level 15 in the Federal civil service.¹⁸ However, in Parastatals, Agencies and Local Governments lower Salary Grade Level officers not below Grade Level 12 may be appointed as head of the Unit.¹⁹

The chairman shall be appointed by the office of the Head of Service of the Federation, and the other members of the Unit by the head of the institution where they work or by the Permanent Secretaries.²⁰ In the selection of persons to the membership of the Unit, regard is had to a spread of persons from different relevant profession and skills. Special emphasis is made on inclusion of persons with accounting, procurement, and audit background.²¹ The appointing authority is required to ensure widespread consultation in the selection process. All the appointments are subject to confirmation by the ICPC after screening.

Experience, competence and honesty are some qualities that are considered in the selection process. Due to the fact that it is only those who work closely with such officers can only know these qualities, the nomination comes from the MDA where such persons work. In practice, all the members of the Unit are nominated by the head of their respective departments to the ICPC for appointment. They are appointed for a term of years renewable for a maximum tenure of three years.²² Their term of

18 Regulation 4.1-2 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

19 Regulation 5.1-5 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

20 Regulation 5.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

21 *Ibid.*

22 Regulation 6.1-1 of the Standing Order for the Operations

office commences from the inauguration of the members by the ICPC.²³

3.1 Powers and Functions of the Unit

The Unit has powers and performs functions, which can lead to the curbing of corruption in MDAs in Nigeria where all the parameters are right. The Standing Orders for the Operation of the Unit give the Unit all the functions and powers of the ICPC as contained in section 6 (a)-(f) of the Corrupt Practices and Other Related Offences Act 2000

except that of prosecution. In other words, it is safe to say that the Unit is like having an ICPC domiciled in each MDA in Nigeria. When the Unit finds a case of corruption that should be prosecuted, they forward their report to the ICPC for further investigation and possible prosecution.²⁴ The Unit also monitors and oversees compliance with some categories of civil service rules such as rules against suppression of records, false claim and falsification of records.²⁵

The Unit is also responsible for promoting Ethics and enforcing integrity compliance with ethical codes within the MDA. They achieve this by developing an Ethics and Integrity Compliance Advisory Program for the MDA that guide personnel on staff conduct and discipline.²⁶ Through this instrument, the Unit monitor and assess ethic and compliance standards contained in the ICPC Act, the provisions of the Public

of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

23 Regulation 6.1-2 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

24 Regulation 7.1-1 & 7.1-4 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

25 Regulation 8.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

26 Regulation 9.1-2 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

Service Rules that relates to corrupt practices, fraud and related offences, the National Anti-Corruption Strategy, the National Ethics Policy and other standing rules and codes.²⁷ It is the duty of the Unit to monitor and ensure compliance in respect of the provisions in the annual budget of their MDA. The Unit is required to forward a mid-year and annual report to the ICPC with a copy to the Management of their respective MDA. In carrying out its functions, the Unit conducts in-house training for the staff of the organization. This is done through forums such as seminars, workshops, enlightenment campaigns and such like method that will educate staff of the MDA of the activities of the Unit and how staff of the organization can help the Unit in achieving its purpose. The Unit meets once every month and the ICPC Desk Officer assigned to a particular Unit is expected to attend such meetings once in every quarter of each year. Minutes of such meetings are to be forwarded to the ICPC quarterly.²⁸ In addition, at the end of every calendar year, the Unit submits its annual reports to the ICPC.

The Unit is entitled to have budgetary provisions made for it in the budget of their MDAs. The Standing order for the operations of the Unit provides that Ministries, Departments and Agencies should make separate budgetary provisions under the specific sub-head of Anti-Corruption and Transparency Unit and such should be adequate for the effective operations of the Units.²⁹ The Chairman of the Unit is in charge of the Unit's vote and the Unit shall submit quarterly financial report to the

27 Regulation 10.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

28 Regulation 22.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

29 Regulation 19.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

management of their MDA as well as the ICPC. A typical budgetary provisions for the Unit includes provisions for enlightenment campaigns, stationeries, recording devices, training cost for members of the Unit, sitting allowances for members of the Unit (the Unit is required to meet once every month), and allocation for phone calls.

This appears to be the most problematic of the provisions regulating the operations of the Unit. The implication of the provisions on funding of the Unit implies that the Unit is financially autonomous from the MDA where it is operating. The members of the Unit are officers of a particular MDA. The prospect of that MDA preparing a separate budget line for the Unit has proved to be very difficult. When the ICPC discovered that the MDA appears to be finding it difficult to comply with these provisions, the Federal Government of Nigeria issued circulars to all MDAs to comply with the requirement. Despite the intervention, the compliance level has been abysmal to say the least. This challenge is a recurring topic of deliberations during training workshop organized by the ICPC for members of the Unit in all MDAs, which holds twice yearly.³⁰ The effect is that the operation of the Unit is crippled and the members have to 'beg' the management of their respective MDAs to be able to get funds to do anything. It is a common saying that he who pays the piper detects the tune and it is common view that this impinges on the independence of the Unit needed for them to undertake the task of fighting corruption in their respective MDAs.

3.2 Successes Recorded by the Unit

30 By Regulation 14.1-1 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014, Unit members must submit themselves to such trainings as may be organized by the ICPC or any other body as may be approved by it to enable them effectively perform their functions.

In the over nineteen years of its existence the Unit has been established in various MDAs which have recorded a considerable amount of success in some aspects of its work. Firstly, in the area of system review a considerable amount of work has been done. Members of the Unit undertake system review of different departments in their MDA especially those that are more corruption prone. These reviews identify, the weaknesses, catalysts in such department that allow corruption to thrive and records to the management of their MDA solutions that address the areas of operation of such Unit that breeds corruption. For example, reviews at the tertiary educational level found that reducing the physical interface between students and staff of such institutions in departments like Admission's Offices, Student's Affairs Offices, Exams and Records offices by computerizing and creating online platforms for student to make enquiries, apply for what they need and be attended to greatly minimizes the corrupt practices that go on in such departments. This has introduced some level of accountability and probity in the manner these department carry out their operations. These system reviews have led some MDAs to identify corruption vulnerabilities within their system and deploying the recommendations made by the Unit that have helped to block such loopholes.³¹ The System review conducted by the Unit in the Ministry of Niger Delta Affairs led to the recovery of N209 billion alleged to have been misappropriated.

Secondly, some of the Units have embarked on investigations of allegations

31 Examples of chapters of the Unit that have achieved this feat include the Unit in the National Health Insurance Scheme (NHIS) state offices of Lagos, Edo, Kaduna and Kwara, the Unit in the Nigerian Custom Services, the Unit in the Ministry of Niger Delta Affairs etc. This information was obtained from Gold F. *Establishment, Impact and Challenges of Anti-Corruption and Transparency Unit* available at <https://icpc.gov.ng/2018/03/05/establishment-impacts-and-challenges-of-anti-corruption-and-transparency-units-actu/> accessed on 6 January 2020 at 3:59 pm.

of corruption and corrupt practice going on in their MDAs. This has exposed a lot of rot in such systems.³²

The Unit in Ken Saro Wiwa Polytechnic, Bori, Rivers State in South-South Nigeria investigated improprieties relating to the institution's payroll system pertaining to huge sums of money and this led to dismissal and suspension of some staff while others were made to refund the monies illegally collected.³³ The recommendation of the Unit flowing from this investigation led to a system upgrade of the payroll system in the institution to block loopholes that were identified in the course of the investigation.

Another example of success of the Unit made public by ICPC is the investigation of twenty-five lecturers of the Federal Polytechnic Nekede, Imo State in South East of Nigeria with regards to their involvement in some corrupt practices. The result was that the management of the institution demoted the said lecturers. The long-term effect of the investigation by the Unit in this institution was that there are reduced incidents of illegal sales of academic literature (popularly referred to as handout), gratification and sexual harassment.³⁴

In educational institutions, students are not excluded from the operations of the Unit. It was found that students can be very vital partners in the fight against corruption in tertiary institutions. They are usually very enthusiastic about it and do provide very useful information about corrupt activities of their colleagues and

32 In the University of Calabar in South-South Nigeria, the investigation carried out by the Unit exposed employment racketeering going on in the institution. The Unit in Federal Polytechnic Nekede carried out investigation into allegation of extortion via text message by an academic staff of the Polytechnic. This information was obtained from Gold F. *Establishment, Impact and Challenges of Anti-Corruption and Transparency Unit* available at <https://icpc.gov.ng/2018/03/05/establishment-impacts-and-challenges-of-anti-corruption-and-transparency-units-actu/> accessed on 6 January 2020 at 3:59 pm.

33 *Ibid.*

34 *Ibid.*

staff of the institution. For example, at the Federal University of Technology, Owerri in South East Nigeria, investigation by the Unit led to the rustication of over 500 students over their involvement in various offences proscribed by the institution.³⁵ In the institution where the author works investigations by the Unit led to a discovery of bursary racketeering by some students and the Unit made recommendation for the students to be queried and made to refund the monies illegally collected.

Thirdly, the Unit in several MDAs has developed ethics and corruption prevention instruments for their MDAs which have in no small measure helped in educating staff of required standard of conduct and serves as guideline as to the sanctions that breach of such code of ethics will attract. Examples of publicized codes of ethics by the Unit is the one developed by the Unit in University of Ilorin, Kwara State in North Central Nigeria and in the National Agency for Food, Drug Administration and Control.³⁶ The Unit also on a continuous basis embarked upon sensitization programmes geared towards educating staff and other relevant stakeholders in their MDAs of the activities of the Unit and solicits for the support of all to fight the scourge of corruption. These programmes usually take the form of workshops, placing of billboards, and sign post with catching captions of anti-corruption slogans.

Fourthly, the Unit in some MDA has constantly demanded probity from public office holders, especially in the allocation and spending of such MDA's budget. It is part of the mandate of the Unit to monitor and ensure compliance with budget implementation.³⁷ Through

35 *Ibid.*

36 *Ibid.*

37 Regulation 13.0 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

the carrying out of this mandate, the Unit in the Nigeria Immigration Service in 2014 discovered an attempt to divert the sum of N11 million naira from a budget of N30, 850,000.00, when the actual cost and payment made was N19, 750,000.00.³⁸ Similarly,, the Unit in the Directorate of Technical Co-operation in Africa also discovered the transfer of N6 million originally budgeted for Youth Empowerment and Development Program to the personal account of a Director in addition to discovering a fraud perpetrated by buying a second-hand 2012 Toyota Camry Car instead of a brand new 2014 model that was budgeted for at the cost of N11 million.

These discoveries were facilitated by the federal government circular mandating that the Unit members be in attendance in committees involved in procurement and incidental matters. Committees such as Tender Boards, and Procurement Committee are under obligation to notify the Unit of their meeting and some members of the Unit are to attend as observers. This has availed the Unit members the opportunity to understand the procurement process of their MDA and ensure that due process is adhered to. This practice has put the management of MDAs on their toes and cut down on sharp practices perpetrated in procurement processes in many MDAs.

From the above, it can be said that the Unit has recorded a level of success in line with its mandate. However, given the potentials that this innovative approach to fighting corruption in MDAs possesses, their achievements are in my opinion but a drop in the ocean. This is on the backdrop of the endemic nature of corruption in many MDAs in Nigeria

38 Gold F. *Establishment, Impact and Challenges of Anti-Corruption and Transparency Unit* available at <https://icpc.gov.ng/2018/03/05/establishment-impacts-and-challenges-of-anti-corruption-and-transparency-units-actu/> accessed on 6 January 2020 at 3:59 pm.

and the fact that the corruption index of Nigeria has not improved over the years and the poverty indices of its populace is on the rise. The way businesses are conducted in MDAs in Nigeria forms part of what determines the corruption index of a country. According to Transparency International, Nigeria ranked 146 out of 180 countries of the world in corruption index in 2019.³⁹ This obviously does not reflect an improvement in the corruption status of the country. This is despite the fact that the Unit had been in existence for over eighteen year at the time of this ranking. The question then is whether the achievement of the Unit is in line with the expectations for setting it up or whether the Unit is performing below its potentials. It is the opinion of the author that the Unit has the potentials to perform far beyond its present output. The posture of this work is that the reason why the Unit is not exhibiting its full potentials is due to the lack of security from victimization of its members and the funding structure of the Unit. It will be argued in the next segment of this work that the presence of these two factors from the outset puts this laudable initiative in a position where its wings were clipped from birth and therefore it lacks the capacity to fly.

4.1 Interrogating the Effectiveness of the Anti-Corruption and Transparency Unit under its Present Structure.

In this segment, a look is taken at how effective the Unit has been against the backdrop of its current structure. The structure referred to here is the security from victimization for members of the Unit and funding of the Unit.

39 *TI anti-corruption ranking: Nigeria moves to 144th from 148th*. Vanguard News, January 25, 2019 available <https://www.vanguardngr.com/2019/01/ti-anti-corruption-ranking-nigeria-moves-to-144th-from-148th/> accessed on May 20, 2020.

4.2 Security from Victimization for Members of the Unit

As earlier pointed out, the mandate of the Unit is anchored on three cardinal objectives, namely, identification of weakness inherent in a particular system that allows corruption to thrive, reviewing of such system to address the weaknesses, and investigating corruption in an MDA and forwarding the findings to the ICPC for possible prosecution. For these objectives to be achieved, it is essential that members of the Unit are able to work without fear or favour. The members must have no fear of being victimized as a result of their functions.

The members of the Unit are nominated by the heads of their organization to the ICPC who under the rules are to conduct due diligence on the nominees. Whether or not this due diligence is undertaken is not clear as in the course of this research no evidence was found to draw a conclusion that it is done. This leaves one likely possibility, which is the heads of the various MDAs are the sole determinant of who gets to be a member of the Unit. Members of the Unit are meant to be watchdogs over the MDA where they operate including the head of the MDA. Making a person who is amongst the persons to be 'watched' by a body to be the sole determinant of the composition of that body appears counter-productive to the objectives of such a body. This however, is not a problem if the Unit upon appointment is given full independence to operate such that the head of such MDA does not have both the bread and the knife. Full independence in this context is hinged on several parameters. Firstly, the job and career progression of a member of the Unit must not be threatened in any way as a result of the member's action taken within the limits of the mandate

of the Unit. No doubt when a member of the Unit whistle blows on corrupt practices going on in their MDA it will not go down well with those involved. Where those involved are the superiors of the member of the Unit concerned, victimization may follow. The issue then is not the presence of victimization but the modalities put in place to checkmate it. This leads to the second issue which is whether there is clear cut procedure of reporting, investigating and prompt action taken to give a member a sense of security in the event of a threat to the member's job knowing that someone got his back and the authorities will not allow him to be victimized for doing a job he was appointed to do, And whether there are clear-cut provisions to tackle situations like this with respect to the Unit. The Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014 attempts to make provision for the protection of members of the Unit.⁴⁰ Reports of victimization of members are to be investigated and where established appropriate steps taken to redress the matter. The problem is that there is no legislative framework for the protection promised to members of the Unit under the Standing Orders. This is because the Corrupt Practices and other Offence Act 2000 establishing the ICPC does not contain provision for protection of whistle blowers from victimization as a result of information given that exposed corruption. The provisions of section 64(1) of the Corrupt Practices and other Offence Act 2000 only protects the identity of the source of information. This provides no benefit for a member of the Unit as their identity is already known. Besides, sections 43(5) and 63(1) of the Corrupt Practices and other Offence Act

40 Regulation 18.1-2 of the Standing Order for the Operations of the Anti-Corruption and Transparency Units (ACTUs) in Ministries, Department and Agencies (MDAs) 2014.

2000 only protects an informant from criminal or civil actions with respect to the information given. As a result of this, there are no clear -cut and established procedures for insulating members of the Unit from victimization. Reports of victimization are therefore treated at the discretion of whoever holds sway at the ICPC. As such, there are reports of victimization that are not even investigated at all and such members of the Unit are left on their own. This does not give the necessary assurance needed for members to undertake the task of the Unit. Self-preservation is the first instinct of man and it is unlikely that any public officer will be willing to embark on a task where his means of livelihood may be taken from him with no assurances of redress. This can only be possible when the members are assured that their 'destiny' is not in the hands of their superiors in the establishment. How will an officer who knows that whether he retains his job or not, whether he advances in his career or not, whether he is punitively transferred or not rests with individuals within the establishment he is required to act as a watchdog over? Such an officer is not likely to act without fear or favour. The picture that can be seen will be rather that of someone likely to tread with caution.

It is documented that some members of the Unit experience hostility from their parent MDA, which can sometimes graduate to harassment, malicious transfers to stations far from where such member's family reside, suspension and even dismissal from employment.⁴¹ The ICPC itself openly acknowledging this challenge stated that:

In many organizations, rather than being given support, the units, are perceived to be spies who report on the activities of the chief executives and other staff... Other challenges faced by ACTU members are the fear of loss of jobs, fear of danger to self and family, and a general apathy to duties as obtained in the public sector.⁴²

In addition, there is the possibility that a member of the Unit can be charged to court for breaching the Official Secret Act 1962. The Corrupt Practices and Other Offences Act makes no provision suspending the operation of the Official Secret Act. As such, a member of the Unit who comes across information exposing a corrupt practice by reason of his office as a public servant working in an MDA and discloses this information to the Unit and this is further disclosed to the ICPC, stands the chance of being dismissed from employment or prosecuted for breaching the official Secret Act. There is a need for a legal framework to help the Unit in this regard. The attempt by the government to offer some form of protection through its Whistleblowing Policy 2016 as laudable as it has not changed the situation as a governmental policy cannot supersede the provisions of an Act of Parliament. The documented experiences some public officers who had exposed corrupt practices is not encouraging. The case of Mr Ntia Thompson, an Assistant Director in the Department of Technical Cooperation in Africa, which is an agency under the Ministry of Foreign Affairs, who was victimized for exposing financial fraud in the agency to

42 Gold F. *Establishment, Impact and Challenges of Anti-Corruption and Transparency Unit* available at <https://icpc.gov.ng/2018/03/05/establishment-impacts-and-challenges-of-anti-corruption-and-transparency-units-actu/> accessed on 6 January 2020 at 3:59 pm.

the tune of \$229,000. He was sacked in December 2016 and though the Federal Government of Nigeria reinstated him several months after, he continues to suffer victimization.⁴³ There is also the case of Aaron Kaase who got sacked in 2015 for reporting that the Chairman of the Police Service Commission, Mike Okiro, was involved in fraud of N275.5m in the Commission. Despite getting a court judgment reinstating him in November 2017, he was only recalled in March 2018, and had not been paid his salary for three years.⁴⁴ There is also the case of Murtala Ibrahim who worked in the Federal Mortgage Bank of Nigeria who was dismissed for exposing corrupt practices.⁴⁵

With reports of this nature, without concrete provisions backed by statutes for the protection of members of the Unit, it is the view of this article that it will continue recording below expected achievements and the Unit will just be in existence in name only and corruption will continue to thrive in MDAs in Nigeria.

4.2 Funding of the Unit

By the Nigerian Government regulation, funding of the Unit is to be provided for by the MDA for which the Unit is established. This has proved to be one of the major challenges to the success of the Unit. It is not in line with the culture of corruption to expect organizations that are at the receiving end of the corruption chain to willingly finance the fight against it. The regulation provides that the MDA where the Unit is operating should create a line of budget for the Unit in its budgeting process but imposes no sanctions for failure to comply. The

43 Olawoyin O. *Nigerian Govt Recalls Sacked Whistleblower* available at <https://www.premiumtimesng.com/news/top-news/235168-nigerian-govt-recalls-sacked-whistleblower.html> accessed on 31 May 2020.

44 *Ibid.*

45 *Ibid.*

result is that many MDAs have failed to obey this regulation and absolutely nothing has been done to sanction the erring MDA. The author was a chairman of the Unit in the institution where he worked for three years and in such period none of the budget presented by the Unit had been approved. This is to be expected. Starving the Unit of funds to operate will effectively ground it and that is the surest way to make the Unit exist in name only. For the MDAs to comply with the directive that they provide funds for the Unit's operation, there must be consequences for failing to comply. Anything short of this is paying lip service to the funding of the Unit. The Unit needs funds to run its operations from enlightenment campaigns, investigating petitions and reports, attendance of capacity building workshops, and costs of phone calls to mention a few. When funds are not released to the Unit as a matter of course and members have to go 'begging' the management for it, the independence needed to work without fear or favour is compromised. If the Unit must actualize its full potentials then the funding of the Unit needs to be revisited by the ICPC. For the Unit to function effectively, it must not only be autonomous, it must be seen to be. The process of funding the Unit is top on the indicators of how autonomous the Unit really is.

5.1 Conclusion and Recommendation

The setting up of the Unit is an innovative approach to combating corruption in MDAs. The initiative holds great potentials to address the systemic corruption in MDAs in Nigeria because the members of the Unit being officers in that MDA, understand better how corruption is perpetrated in their Department or have the opportunity to do so. They not only have the understanding of how corrupt

41 Thematic Compilation of Relevant Information Submitted by Nigeria
Article 6 UNCAC: Preventive Anti-Corruption Body or Bodies available https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/Nigeria.pdf accessed on 28 May 2020.

officers work, they can also easily identify the weaknesses in the system that allows corruption to fester and can review such system and eliminate the weaknesses and loop holes. However, for the potentials of the Units to be fully actualized, the issue of security against victimization of members of the Units and the funding of the Units must be tweaked. In this light, this work makes some recommendations.

Firstly, the promotion, transfer, suspension and dismissal of any member of the Unit should be made subject to the confirmation of the ICPC. In this way, the management of the MDA will not be the final say on these issues with regard to a member of the Unit. This will minimize incidents of victimization

of members of the Units.

Secondly, the funding of the Units should be borne solely by the ICPC. The ICPC should create a line of budgeting in its annual budget dedicated to the funding of the Units in all MDAs. This way the Units will be truly autonomous and can express and achieve their full potentials. The ICPC should not rest on its oars but take the bull by the horns to see to it that this innovative approach to curbing corruption in MDAs succeeds in Nigeria.