

**Abstract.**

The Nigerian business climate has been bedeviled by one scandal or another with regards to public contract execution; the executors of such contracts are either foreign or local firms. The rent seeking culture of those in public office makes contracts the preserve of the highest bidder and not necessarily the competent, this attitude prevents new entrants into the business environment, makes costs of doing business higher, creates monopolies, reduces foreign investments and confidence in the ability of firms to deliver in service provision, there is also the case of abandoned projects emanating from incompetence of such firms and the inability to enforce terms of contracts. With the business environment in peril the Convention on Business Integrity seeks to engage private firms to adopt new ethical standards, making use of moral suasion, they intend to make bigger firms signatories to the convention, their influence is believed to be strong enough to remodel, inspire and lure smaller firms to the fold. The convention's 5-star rating format comprising of competence, knowledge of working policy by rank and file of the firms, transparency and accountability, power of self scrutiny, punitive measures and reward system for erring and industrious staffs respectively which can be independently verified for signatories to the convention carry one to five stars in the order of arrangement above. It is believed that the rating and the ability of firms to accede to their terms as signatories to the convention based on their close cooperation with the convention's working group would enable such firms become less susceptible to corruption in their dealings with the public sector. Their approach enlists individual business interests, businesses in the private sector realm, together with anti-graft agencies thus constituting a multi-sector approach to eliminating corruption in contract execution and installing by design a competitive business environment.

### **Introduction: Corruption small or big is corruption.**

As a graduate below the age of 30, I am expected to enlist in the National Youth Service Corp (NYSC), the process involves a 3 week military orientation in camp followed by a 1 year service to the Nigerian nation; at camp in Abuja in early March 2009, there I was in one of the numerous registration lines, this one in particular was the most important of the lines it stretched endlessly, and went round in circles, all I could see was a sea of heads, then time went by 1, 2, ...3 hours and I still was at the same point where I was when I arrived a couple of hours before, unknown to me several persons had been coming into the line from the sides, way in front without any individual raising an alarm, because of this we were rooted in the same position why those adopting the sharp practice registered and left, this continued until some irritated fellow in line took it upon himself to ensure that no one came in from the sides only then did the line move but not without resistance from those who wanted to be unlawful, however, they did not succeed more so as delegated authority finally arrived to aid the diligent individual who had instituted this new order, we could only wonder where they were to begin with, their absence only seemed to approve of the unlawful conduct that was taking place, today am into the first month of my service to my nation and the events of that day is history but more fundamental is the consequence of unlawfulness which was time wasting and energy sapping, the unlawfulness in this case- line shunting is a corrupt practice it stalled the line, and the fact that there was no whistle blower initially and the absence of authorities who would have enforced the right practice exacerbated the dire condition, this is a practical anecdote of what corruption could result to in a line of say 500 people, however, there is a multiplier effect in the wider context as we consider a nation, her economy and business climate (or processes) which leads to wastage of resource be it material or human.

### **Corruption, responsible for the new world order.**

The current global economic crises began due to non-adoption, necessary modification(s) and continuation of the right procedures upon which the world economy was initially ran and ought to run, not until it became dire, the need to curb and exterminate these sharp practices was not (an) imperative even though the whistle was blown against such foul dealings, today the entire world is reeling from the consequential ripple effects manifesting itself as job losses, credit crunch, and the big R-recession, in summary, it is a race against time to prevent a depression which is imminent. With more fiscal discipline, actual productivity and a reward system that leaned towards those that were productive rather than been speculative, more checks and balances in corporate fraud (involving the falsification of shareholder dividends, profits etcetera) the world would have been saved this burden. Around the world perception index on corruption continues to grow an indication that more people are corrupt today than ever before, the public sector is a perpetual culprit, however, an emergent trend is a rapid increase in corruption amongst the private sector, especially as more public assets are

privatized and public-private partnerships (PPP) appears as a more result oriented approach to achieving set goals and objectives.

### **Corruption in the Nigerian private sector.**

In Nigeria, the privatization law enacted in the late 1980's only became effective at the dawn of the 21<sup>st</sup> century, in essence the private sector is a nascent one; however, this sector is not thriving because of the attendant effects of corruption hindering its growth and expansion preventing the sector from reaching its zenith. The private sector ought to be the engine for growth in the extractive sector, oil and gas, telecommunication, banking and finance, infrastructural provision etcetera, but these core areas that enhance benchmarks for development can only manage to show marginal performance (mostly on a macro level and not at the micro level) due to corrupt business ethics. The law of causality has seen the aforementioned sectors reaching the lowest ebb and corruption is at the heart of the cause of the ebbing despite few stories of success, there are numerous sordid cases of the effects of an unsound business climate, these constitutes challenges posed by a corrupt business process evident in:

1. poor service delivery,
2. increased cost of doing business,
3. unlevelled playing field where rules are as permanent as the next business transaction (bending the rule- a phenomenon which favours the connected few),
4. a work force ignorant of sound business ethics,
5. poor security of investment,
6. law of contract that could be dishonoured, if effected, most times it is out of personal concern by delegated adjudicators, so contract enforcement though should be a body of stipulated laws with a clear means of enforcement is sorted out arbitrarily, the rest not effected results in abandoned projects and unpaid income,
7. finally, unsound and corrupt business practices creates companies that fold up, lock shop and never see the light of day and a back log of companies that exist as dreams, business proposals, feasibility studies etcetera.

To solve this problem all major players have to be involved, anti graft agencies, the media, NGO's, civil society, doyens and captains of industries (i.e. individual contribution), this all encompassing approach constitutes a multi-sector approach to cleaning house, the house been the private sector, the need to clean house might not be imperative to the passive observer unless the attendant cost enumerated above is first elucidated upon.

#### **a. Poor Service Delivery.**

The worst hit areas of our economy where service delivery is so poor are the energy and power sectors, the Nigerian nation today condones a one million dollar market for generators,

this is the cost of the underperformance in the power sector, a sector that was only able to supply a paltry sum of 2000 mega watts of electricity in 1999 as a public entity for a nation that requires 104,000 mega watts of electricity, nevertheless, a new look power sector adopting PPP as its operational principle is not fairing any better, the benchmark of 10,000 mega watts a power regime that should have been effected since 2007 still is elusive, the power projects embarked upon through the PPP approach are consuming large sums of money without a commensurate increase in power supply, in the fiscal year of 2008, there was no evidence of what 18 billion naira some \$1.8 million US pumped into this sector had been used for, this conundrum is easily creating an alternate market for generators powered by fuel and diesel which constitutes a nuisance in both noise generation and environmental pollution, coupled with the fact that their powering mediums are non-renewable in nature, though they are locally available, they remain costly in finished and refined forms when imported to the nation's shores from whence it was once exported as crude. The private parties in the PPP model to meet power supply are expatriate firms it remains to be investigated as to what prerequisite they met before being handed the contracts, while their inefficiency cannot be excused they are in a business climate hijacked by an unscrupulous few, who are bent on more exploitation of the weakness in public contract procurement by the private sector in order to prolong their rent-seeking culture as they usurp their powers to install private sector firms who are willing to pay these rents- a means of increasing their wealth and relevance in society. The corrupt tendencies encountered in the provision of power shows that the private sector is susceptible to corruption emanating from the public sector when they work in synergy, how else would one explain 9 mega power stations though built in gas endowed areas but for some reason far away from gas reservoirs and pipelines, did not the private expatriate contractors see this in their feasibility studies? Is industry not to be sited close to raw material? Did they show restraint against further expansion of the project by communicating this flaw through the proper line of communication protocol? Do their balance sheets of remuneration add up to show that substantial parts of the \$1.8 million did accrue to them, can they be forward enough to state how much went in sorting and settling public officers to enable them remain as the legal fronts to the deep-seated and expansive network of corruption machineries in the sector? It would be interesting to find out whom the adjudicators are who have the responsibility of hire and fire and enforcing their contracts, are they really doing their work? Their work in time would cause more businesses to flourish, and open up more avenues for new businesses to spring up while creating more innovative means of creation of wealth as power provision improves through their right action(s) in holding the private firms to account for their ineptitude.

Nevertheless, it needs to be noted that poor performance in the public sector resulting from the non-implementation of sound business policies by successive administrations frustrates such public contracts executed by the private sector on behalf of the public sector, even more disturbing is that much more is left to be desired of those who ought to be the government in

waiting this is how civil society, Community Based Organizations (CBO's), NGO's are defined, they are members of the private sector amongst them are quasi-type groups - they are in advocacy on various issues solely for the monetary gains, how else can the new craze to set up these bodies (rapidly gaining momentum) be explained? There are a plethora of these bodies most especially in HIV/AIDS advocacy, these groups ought to have ethical standards to live by because the lives of people are involved such bogus bodies collect foreign donations and are squandered by those fronting as the officers of these agencies, are there means for true accountability amongst these groups? There is a social contract! Such groups are even set up by public officials! By law this would be wrong, who ensures that discrepancies like these do not occur? In summary, who blows the whistle against the whistle blower and those who infiltrate this core and ever important group?

**b. Increased cost of doing business.**

According to the New Economic Empowerment Development Strategy document (NEEDS 1, 2003-2007) power provision costs new business units 25% of startup capital this is a major contributory factor why new businesses die off as soon as they begin operations this can be traced to the brazen corrupt tendencies that has crippled the power sector. If at all the business is registered, corruption pushes much of the businesses that would have been in the formal sector to the informal sector, this has to do with the bottle necks and red tapes that excludes less buoyant entrepreneurs, these entrepreneurs fear also that they would be subjected to numerous tax regimes- a 2006 study showed that there were 89 different tax payment by individuals and businesses, while about 30 are approved. Few businesses that remain formally negotiate the tax they pay illegally, so that they can evade paying exuberant taxes, a situation that forces majority of businesses to the informal sector, below the radar of tax authorities. The informal sector though thriving remains separate from the main economy, active players cannot be assisted by banks through loans for expansion, even though over 70% of business activities in the economy are in the informal sector, simply because records are not held by banks as to their level of prosperity. The rules they operate by are not acceptable to would be international partners, they are seen as to great a risk to engage with in business, the result of this is reduced competition in different sectors of the economy- the integral contribution of healthy competition creates a business environment where only the best get public contracts, it creates a core group of business units that can deliver on national interests like power/energy, health, etcetera.

It could only be described as corrupt if financial institutions do not grant loans to bright business prospects but only to those that can give kick backs from the loans collected, more often such loans are not returned and banks become weaker with such transactions, there has never been any entrepreneurial success without the input of banks. Therefore if banks give out loans they would in turn monitor their financial contribution, but when corruption sets into their dealings with the private sector it becomes difficult to follow the money towards

ensuring that it achieves economic gains that would yield more financial opportunity and prosperity. The resultant effect is a weak banking system which loses its credibility and cannot be seen as competent partners to provide finance when expatriate firms are involved. If these banks maintain government accounts, it then means that tax payers money are recklessly invested in bad loans, a bad omen for public revenue and the smaller competitors in the private sector, since this revenue cannot help them. It is costly for business not to have capital; it is situations like these that enable bigger well established firms survive while smaller ones fizzle out.

**c. Work force ignorant on sound business ethics and poor security of investment.**

It is almost expected that one public official or another would fall short on corruption charges and allegations (of which they are certainly culpable) with regards to accepting monetary rewards and gifts directly from bidders or from third party (go between) who broker such deals when it concerns foreign interests in national contracts. If this is the case with public officials, then members of a budding private sector surrounded by public sector wrangling, wheeling and dealing are themselves easily influenced by these tendencies, this makes them more predisposed to giving financial inducement to those awarding contracts when it comes to local contract acquisition since they believe that this is the norm at the top level. In like manner culpable staff would not get hard knocks but would be seen as innovative. What needs to be determined is if these staffs truly are in the know that such practices are illegal, and how high up the hierarchy of private sector firms are involved in such practices. I reckon that in their thinking contracts procurement ought to go to the highest bidder and not those adjudged more competent, more of such unsound practices includes paying for competing bids to be made available to a business co-competitor before they are formally scrutinized in open bids so that a better quotation can be prepared by such firms, amongst many other nefarious activities.

It would be interesting to find a means of knowing if any on the boards that give out such contracts have vested interest to the remotest sense in such contracts. One area where my interest lies is in investment firms that deal with the capital/money market, here rests investments kept in trust of those who run the affairs of the market, most are on a long term basis, in America, folks like Bernard Madoff showed how terrible it is to ruin that trust, a trust that was \$50 billion strong, others like Martha Stewart were penalized for inside trading, in the Nigerian Capital market it is on record that a few regulators of the market are on the boards of quoted companies at a time when the stocks and shares of such companies are soaring more than others, another aspect to it is that top government officials are also on the boards of such companies so it appears that there is a conscientious and deliberate manipulation for their interest to soar but intriguing is that none of these government officials, individual business men and market regulators believe that they have done anything wrong. Banks mentioned in item 3, when they make bad investments like giving bad loans

and focus on speculative selling of foreign exchange without engaging in productive activities (that would accrue to them more capital) is tantamount to jeopardizing the savings of customers this is partly responsible for the foreclosure in the housing sector in America, bad loans were given out, and the rest is history.

**d. Poor enforcement of contract terms.**

I have been privileged to learn of contracts terminated by office holders of the highest cadre who had the power to do so, for no reason other than they did not get kick backs from the private contractors, the contract withdrawal from the onsite contractors is simply attributed to something else to mislead the public and whistle blowers. The resulting court case on this one contract was prolonged, though it turned out in favour of the private contractor, the legal proceedings that ensued cost more money, and the overall cost of executing the contract when the contractors mobilized back to site dwarfed the awarding cost, that is bad for business, this is one of the quintessential cost of corruption, for all to see, to the work force of the companies involved it was harrowing hell with unpalatable tales of hardship to them and their dependents this is the hidden cost of corruption. To prevent corruption there has to be put in place standards that have to be acceded to, I quite disagree with the way contracts are revoked and to begin with awarded at state and local government levels more scrutiny is required here because these are areas where development need be spot-on with every contract awarded because they are tired to quality of life of the people and their corresponding productivity. Reform is highly needed in courts that have the legal power to settle grey areas in contracts so that due action is quickly expedited, and help forestall failed and abandoned projects.

**e. Unleveled playing fields.**

Corruption creates monopolies if certain business entities can bribe their way they easily can stifle competition that are not in tune with such tendencies (settling) so that only their interest is served for as long as possible. Certain sectors of the economy might enjoy protectionism not necessarily because it is a well thought out plan for its expansive growth but because certain vested interests desire to be sole givers of the protected produce, overall, this is bad for business, economic growth depends on healthy rivalry and competition even if such competition is with foreign firms. The down turn in the global economy has seen heads of governments at the recently concluded G-20 summit in London rallying round to debunk protectionism, closely link to this is tax exemption on certain imports that are key to economic sustenance as an example there is tax reduction on crude imports into Nigeria, but this has been taken advantage of- the result is that such crude products meant to fuel the economy are cheaply brought into the country but eventually illegally smuggled to neighbouring markets through porous land borders by private interest where they are sold at

international prizes, this is making a few rich, least I forget tax havens and smuggling havens contributed to the global down turn in the world economy. The ability to thoroughly solve the world economic crises and prevent future reoccurrence would depend on developing economies like those of Nigeria taking bold steps towards eliminating corruption in the private sector, the need to eliminate protectionism would further enhance the prospects of trade, most importantly that which is private sector driven that would kick-start the west African economy, in the current state of the world economy that would be good news.

### **Instituting sound private sector business ethics: The Nigerian experience.**

However, in order to achieve this, it is pertinent to ask who shall we send? Who should go for us to help sanitize the private sector and enable it be a platform of change when it engages the public sector riddled with corruption when its synergy is required in business contracts? Any idea, concept, or approach that should throng out to meet this demand should be far reaching and all inclusive as I stated much earlier at the beginning of this essay. In Nigeria, the Convention on Business Integrity (CBI) fits well into this billing first instituted in 1997, it was reinitiated in 2001, today its 5-star rating regime of private business performance has been adopted by anti-graft agencies such as the Economic and Financial Crimes Commission (EFCC), other movements like the Fix Nigeria Initiative (FNI) also adopted by the EFCC is similar to the CBI but while FNI focuses on corruption in Nigeria in the wider context on all sectors, making use of different elements to achieve corruption reduction such as the media and faith based organizations (FBO's), the CBI is private sector focused, designed by participants in this sector. The audacious work to reform business ethics in the Nigerian private sector is the brain child of a few with temerity, an NGO led initiative metamorphosed into a code on business integrity or conduct, which further became the Convention on Business Integrity when it was ratified by equally passionate private business entities in their capacity as individuals or business units by becoming signatories to the code. The CBI attempts to rewrite and erode a flawed business culture that felicitates with corruption and establish by moral suasion the need for a healthy corruption free business climate in the private sector, by welding claims substantiated by the fact that the shortcomings and challenges elucidated upon above can be stemmed and sound business principles can thrive in Nigeria for the benefit of the private sector and the greater good of the Nigerian economy. Below are its rating regimes:

#### **1. One star.**

Making sure that companies act in areas of their competence and jurisdiction.

It is common place to find business entities haggling for contracts were they have no technical knowhow only for them to sublet it to a 3<sup>rd</sup> party or 3<sup>rd</sup> parties at ridiculous contract agreements such contracts are poorly executed and most times abandoned because of lack of

key intricate knowledge in executing the technical details/requirements by the firms that are awarded the contract and those that they sublet it to, firms awarded these contracts most times use their financial muscle and connections to get those contracts. Even when such contracts are carried out to completion they do not last long and do not serve out their stipulated use/warranty because vital processes are circumvented to cut costs. The convention seeks to identify areas of expertise of private firms and thus endorse them competent to deliver efficiently in those areas.

## **2. Two star.**

This level of certification seeks to understand the mission statement of the firms that adopt the rating format and how well this is understood by the work force of such an organization. Proper comprehension of the companies working policy by all staff would require thoroughly thought out procedures to do this and would ensure that the firm is well on its way to resist compromise of standards as no staff would want to contravene the firms standing policy. I once worked for an oil firm whose working policy was packaged as HSE an acronym for Health, Safety and Environment, the principle of each was a beckon of light as to how business would be conducted, and these were passed on to staff through weekly departmental and monthly interdepartmental meetings.

## **3. Three star.**

This rating seeks to establish the level of accountability and transparency of the signatories to the convention, and what mechanisms they have put in place for accessing this information, at stipulated and unscheduled periods

## **4. Four star.**

This rating wants to determine the power of the process by which an organization can self scrutinize and the conduct of managerial staffs that have the ability to make palliative decisions, but how often do those decisions concur with the code of ethics on which the organization was formed is another question this rating seeks to find out.

## **5. Five star.**

This level of accreditation of Nigerian private sector businesses seeks to know the punitive measures for contravening the code of conduct and how meticulously this is enforced. Inclusive is the reward system for stand out performance in adhering to such codes and how well such punitive and reward measures can be attested to by those outside management.

The benefits of private business entities adopting this convention are immense, it is of benefit to them, the Nigerian economy, and the impression and perception on corruption in the Nigerian business environment, and they include:

1. By being a signatory to the CBI can be equated to taking a stand against corruption, a firm would do all in its power to maintain a squeaky clean image especially now when the Nigerian populace is fed-up with the effects of corruption in their lives and livelihoods.
2. It would call the process of honouring contracts to order, reducing risks and unpredictability of private sector doing business. The Conventions mandate also involves producing impartial adjudicators who would leave above personal interest in interpreting terms of contracts.
3. Companies would be less in risk of running afoul of the law, the proper understanding of sound business ethical conducts/codes means that firms do not participate in illegal practices of wheeling and dealing in order to get contracts. As a follow up to 3, individual members would also not run afoul by committing such sharp practices because their training would give them the scope of what is legal and illegal.
4. It protects the interest of shareholders since their assets are no longer used for 'settlement' as bribes to secure contracts, or used for payment of humongous bonuses to high ranking members of the boards, or their assets fraudulently expropriated through company fraud.
5. Foreign interest would have a pool of competent private business firms to partner with. CBI membership and her ratings would help espouse indigenous Nigerian firms that are best suited to standards held by expatriate firms who wish to partner with those in Nigeria.
6. Local firms adjudged competent do not have to provide huge collateral to prove themselves less risky to do business with, CBI accreditation would suffice, by so doing local firms cost of doing business with foreign counterparts would reduce.
7. When real players in business emerge by their transformation to meet with CBI standards they would not require protectionist actions/laws against foreign firms, it would make them grow to even compete in foreign countries due to their adoption of ethical standards acknowledged in those countries, with this, foreign firms would not be jittery about engaging them for partnership, they become a merit since they know the business terrain.
8. The cause of scandals that have blighted procurement of contracts can be checkmated as the CBI provides a detailed glossary as to what is permissible in bidding for contracts and what is not.
9. As corruption reduces because of the ethical standards propagated by a reformed private sector more FDI would accrue to the Nigerian nation, as foreign donors and development partners can probe by independent assessment the productive gains of their donations. Less corruption means more investment.
10. The much needed transformation at the micro level would become manifest, personally I want to see more business grow from micro to small and medium scale (more of this is of importance, such businesses last longer) and if most are daring enough would turn out to be

conglomerates, this can only happen if such firms remain relevant and corrupt tendencies do not stifle them out.

The CBI recognizes that all these benefits require effort and they believe that the only way of achieving them is by getting the big guns, the really big firms to adopt this convention, in what I call an osmosis or diffusion process their approach to business would permeate to smaller businesses, such firms should recognize that creating a corruption free climate would be of benefit to them in the long run. The accreditation of signatories and ensuring that their performance holds up to the CBI standards is the responsibility of a working group described as the core group. My 2 cents is that this working group be as incorruptible as possible so that they can hold up the most perfect standards possible, this calls in question the challenge of leadership of the core group, another challenge would be devising means to engage all players in the private sector in what has been described as enlisting a sizeable critical mass, a major challenge also is finance for the conventions secretariat so that it can function effectively. The issue of finance is very dicey I do not support signatories becoming financiers by depositing in a pool of funds, this would cause favoritism and prevent impartial assessment, however, logistic support to include data provision to monitor track record of signatories and so on can be accepted from ombudsman agencies like EFCC and the Independent Corrupt Practices and Other Related Offences Commission (ICPC).

### **Conclusion.**

The CBI approach in Nigeria is analogous with what OECD attempts to do internationally by cutting bribe issuance from the giving end. The fix Nigeria Initiative on the other hand advocates no giving, no taking. The oil and gas sector, telecommunications, health sectors rank high in their to reform list, where corruption is most endemic, for this reason, its campaign was brought to the door steps of Corporate Nigeria in October 2007, government initiatives like the 'rebranding Nigeria Project' marshaled out by the Nigerian Ministry of Information in 2009 should find common purpose with this initiative and first advocate for the passage of the Freedom of Information Bill (FOI), a bill when it becomes law would empower individuals like me to seek information independently and better place me as a whistle blower when discrepancies are noticed, until then, the multi-sector approach would lack cohesion, which is the call to action against corruption.

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