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“The Bane of Corruption in Business Practices in the Private Sector”

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Introduction

Nigeria is the world's 15th most corrupt nation,¹ according to Transparency International's Corruption Perception Index² and people everywhere have learned to be extra cautious when doing business in or with Nigeria. Generally as a result of the 419 scourge, countries around the world are weary when they encounter things Nigerian. However, today, despite all that, the Dangote brand is rated one of the top 10 most valuable brands in Africa.³ Dangote Cement is arguably Nigeria's most capitalized company on the Nigeria stock exchange with projects and operations in Nigeria and 14 other African countries⁴ with plans to add another 4 to make 18.⁵ Oando Plc in a few short years is listed in Johannesburg, Toronto and is hatching plans to raise further capital on the London Stock Exchange. Nigerian banks seem to have spread all over Africa and the President of Nigeria assures the country that it will remain a top investment destination in Africa.⁶

There are several ways of interpreting this information but I am interested in the following:

1. Should we take it as evidence that corruption no longer poisons business practices in the private sector, or
2. That there might be an emerging new path for business practices that can permit those who choose it survive despite the odds?

The Bane of Corruption

A bane, according to the dictionary, is something that causes fatal destruction or in the extreme, poisons and causes death. Does corruption destroy or damage business practices in the private sector in Nigeria?

Before we answer that question, let us digress just a little bit. Prof. G.J. Deon Rossouw of the University of Pretoria, South Africa has a little exercise, now famous amongst ethicists, about apples and barrels, which he uses to discuss ethics. Imagine you had good apples and bad apples on the one hand and good barrel and bad barrel on the other hand. If you put bad apples in a bad barrel it is obvious they will decay. If you put good apples in a bad barrel they will also decay. If you put good apples in a good barrel then you can at least preserve them for a while.

So, I would usually ask audiences at this point – are Nigerians good apples or bad apples? And after a lot of debate you will find almost without fail that the audience will say good apples but then some will concede that there are some bad apples too. Then I go on to ask, is Nigeria a good barrel or a bad barrel and almost unanimously the audience would chorus, 'bad barrel'. Then I ask, if we

¹ <http://www.premiumtimesng.com/news/more-news/172348-nigeria-worlds-15th-corrupt-nation-transparency-international.html>

² Nigeria ranked 136 out of 176 countries surveyed with a score of just 27 out of 100 in the 2014, Corruption Perceptions Index. Furthermore, 85% of Nigerians believe corruption increased between 2011 and 2013.

http://www.transparency.org/news/feature/nigerias_corruption_challenge

³ <http://www.brandafrica.net/NewsPost.aspx?id=409>

⁴ <http://dangote.com/ourbrands/cement.aspx>

⁵ <http://pulse.ng/business/dangote-to-build-cement-plants-in-18-african-countries-id4249975.html>

⁶ <http://www.channelstv.com/2015/09/15/nigeria-will-remain-number-one-investment-destination-in-africa-buhari/>

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have largely good apples and put them in a bad barrel what do we expect to get? Invariably the audience accepts that corruption or decay is inevitable in that scenario.

Before we return, let us consider one more analogy. It is called the boiled frog syndrome.⁷ If you place a frog in a pot of boiling water, it will instantly jump out. But if you place a frog in a pot of tepid water and slowly raise the temperature, because reptiles take on the temperature of their surroundings, the story goes that it will keep adjusting and adapting until it eventually allows itself to be boiled to death. Now whether scientifically possible or not or just simply metaphorical, it illustrates an attitude that we can observe in Nigeria. As social conditions and hardship sets in, so long as it is gradual, Nigerians tend to adjust and thank God they are still surviving rather than react decisively against the phenomenon.

So back to the bane of corruption: when you put bad apples together with good apples, everyone will tell you the poisonous decay spreads and the good ones also turn bad. If Nigeria is a bad barrel and all Nigerians are good apples, the story also suggests that all Nigerians will eventually turn into bad apples. The set of morals, standards, rules, laws, principles and so on that actually control business practices in the private sector are the ethics in business. If behaviour and choices in business are consistently bad, our ethics must be bad. If behaviour and choices in business are consistently acceptable or good, they must be emanating from a place of “good” ethics. So, how do we determine what results in good, acceptable or bad business practices since people are more likely to set standards in relation to their limitations and constraints if they are to have any hope of achieving those standards? Therefore standards (and thus ethics) are neither absolute nor universal. People agree a minimum set of acceptable standards as a general guide to making an understanding of ethics more uniform.

In other words, a level of effort is required to identify and isolate the bad apples and to fix problems with the barrels. It is easy to make selfish choices. It is also easy to make selfless choices. But making ethical choices consistently requires extra effort to preserve the self-interest and the interest of others, without damaging the common good. As we have seen from the boiled frog syndrome, doing nothing and going with the flow is not an option: ethics and standards slide and decay without effort to act in the common good.

Are companies like Dangote starting to change their story because the bane of corruption has been eliminated?

The World Economic Forum (WEF) released the 2015 Global Competitiveness Index (GCI) rankings and Nigeria ranked 127 of the 144 countries assessed. The 5 most problematic factors for doing business in Nigeria on a scale of 1 -30 from the survey were as follows:⁸

- Inadequate infrastructure 26.1
- Corruption 19.6,

⁷http://www.dow.catholic.edu.au/policies/SafeWorkEnvironment/Boiling_Frog.pdf

⁸ http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf

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- Access to financing 17.7
- Policy instability and 7.5
- inefficient government bureaucracy 7.4

Nigeria’s creditors are also watching what the country does about corruption. Amongst a myriad indicators considered to issue a Sovereign Credit Rating, Fitch, one of the rating agencies warns that “a reversal of key structural reforms and anti-corruption and transparency measures” could lead them to review downwards the current BB- credit rating they have issued to Nigeria.⁹ Without a doubt, the bane of corruption in business practices in the private sector is alive and well.

Emerging New Path

Since children are not born with integrity but acquire this in the course of their moral upbringing and socialization, building common ethical values and identity helps to build integrity into business practices. Building moral principles and ethics in the conduct of business in the private sector can also build a picture of integrity if and only if the incentive systems are in alignment with encouraging the adoption of the right behaviours.

For children to inculcate the right values an appropriate mixture of reward and punishment is used and this must be sustained. Likewise, in business, having in place the standards along with appropriate levels of incentives (sanctions and rewards) aligned with the required standards of behavior, helps us keep actors focused on keeping integrity.

Good ethics in business practices (and thus halting the bane of corruption) can emanate from

1. Having the right ideology encompassing a belief system that strict punishment or tangible rewards will accrue depending on ones behaviour
2. An enabling environment created by government through institutions with strong reward and punishment systems will help businesses consider their individual actions
3. A contract between parties to a transaction that stipulates a strict code of conduct and aligns incentives between the parties concerned is also required

Incentives draw a very strong link between the self-interest of entities and compliance with rules, standards, laws and regulations when properly deployed.

Hypothetically, we could attempt to get incentives to drive changes in business practices if we ensure:

- All corruption risk factors, actual risks and corruption schemes by location, size, industry, sector, transaction type, and other demographic characteristics could be published and exposed. It is my understanding that Nigeria is now in the process of conducting a National Risk Assessment.

⁹ <https://www.fitchratings.com/site/fitch-home/pressrelease?id=991393>

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- Simple tools for self-discovery of Corruption risks will be made pervasive in the country to ensure standards and what to do to comply are widely understood by actors in the private sector
- The intelligence and security forces, business, CSOs could work on discovering, cataloging and exposing the corruption schemes at play to stay ahead of them as they mutate
- Access to government subsidies, investment, concessions and any other sort of assistance from or access to public funds could then be prioritized to entities with arrangements in place yielding the lowest corruption risks
- For example, SMEs seeking access to the N300bn SMEIS fund would only be allowed if not a corruption risk. Larger businesses seeking loan guarantees from government would only have their applications supported if not a corruption risk.
- Public Procurement could then favour only competent companies limiting their corruption risk beneath a prescribed threshold. This will limit FCPA, UK Bribery Act exposure for such companies. Already NNPC in its contracts since the new administration has been requiring bidders to show “certainty of business integrity” even though it may not be clear about how to operationalize it.
- Partnership between government and non-State actors on subjects such as participatory budgeting arrangements, grassroots consultations to surface priorities of citizens which will strengthen alignment between government priorities and priorities of citizens; participation in watchdog arrangements involving government as part of transparent governance processes could be reserved to be undertaken by CSOs who are themselves not a corruption risk.
- MDAs could be given corruption risk targets, which would be published and incorporated into performance management processes. Their achieved ratings would also be published and ranked. Public facing MDAs would then have Service Level Agreements (SLAs) established and all their rules, processes, and tariffs published. Independent whistleblower hotlines, public feedback mechanisms could be established to provide transparent identification of centers of excellence and centers of poor service delivery. A public impunity register could also be kept to maintain the pressure on public servants to act free of corruption.
- MDAs that are a corruption risk could have less of their budget sums released at a go whilst those who are less of a risk can get greater releases.
- Annual returns of all incorporated entities could include a statement on risk mitigation they have put in place as required for their demographic characteristics. Information on beneficial owners of entities and their annual returns could be made public.

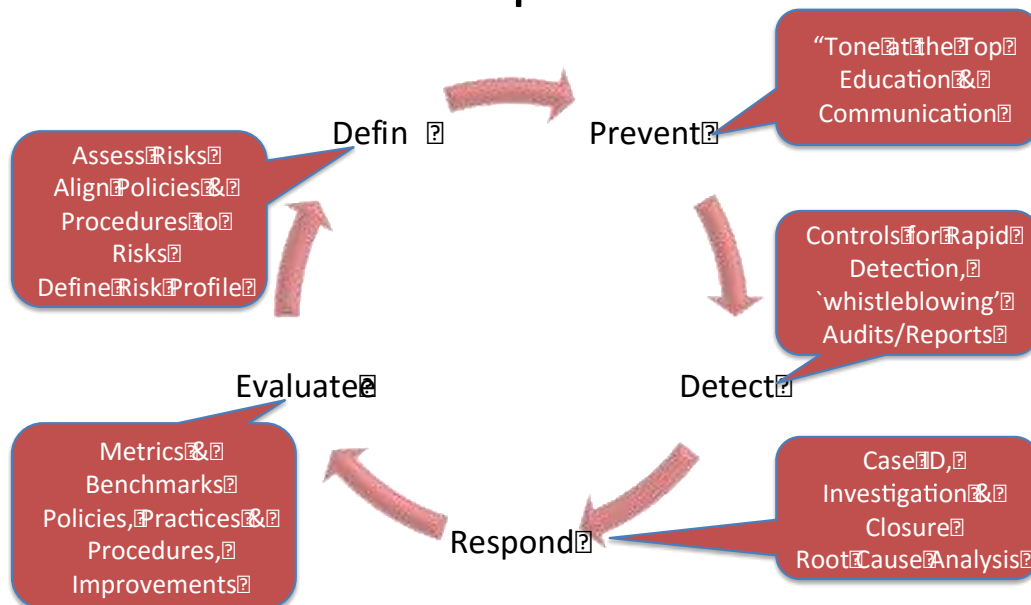
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- At the Nigeria Stock Exchange, a Corporate Governance compliance system called CGRS (Corporate Governance Rating System), which measures the compliance of large companies with extant corporate governance rules. The incentive is that only those meeting a prescribed threshold score can transit onto the newly created premium board of the exchange. Experience from Brazil shows that a company listed on such a premium segment tends to outperform the rest of the market by as much as 300%. This is now spurring compliance efforts on the part of those not yet listed in the segment.

Failing to prevent bribery is now an offence under the UK bribery Act. The US FCPA also punishes the bribery of foreign public officials. Having adequate procedures in place is a defence against prosecution in these laws and having auditable standards of anti-corruption compliance is gaining ground as a new way of assuring business partners and foreign jurisdictions that one has taken steps to protect one’s business against becoming involved in corruption.

The process that companies employ to ensure they are on track is depicted below:

Ethics & Compliance Process



<http://www.compliancebuilding.com/2009/02/25/the-2008-irn-ethics-and-compliance-risk-management-practices-report/>

Although they have codes, policies, laws and so on, you will see that building integrity goes beyond the morals to incorporate how “apples actually function within the barrel.” It is not possible to build integrity only on dissemination of values and principles, it must include a robust system for tracking and ensuring compliance. Independent studies¹⁰ reviewing integrity frameworks show that

¹⁰ <http://www.ibac.vic.gov.au/docs/default-source/reviews/review-of-integrity-frameworks-research-paper.pdf>

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“...few agencies have stand-alone, specific anti-corruption risk assessment processes; the controls agencies had in place generally related to fraud – specific corruption risks were generally not defined; and there was little evidence of explicit involvement of senior management in managing or having oversight of corruption measures...” ☒

Some examples of auditable standards now being emulated are as follows:

- ISO 19600 – Guidance on Compliance Management Systems
- ISO 37001 – Auditable anti-bribery standard under negotiation
- IS 15900 – Indian Standard Guidance on Fraud & Corruption Control by an Organisation
- ISO/CASCO – Looking at Competence Requirements for Auditing & Certification of anti-bribery management systems (c.f. ISO IEC 17021)
- ISO 26000 – Respect for rule of law/respect for international norms

Conclusions

If the Dangote Company is able to show business partners and foreign jurisdictions that it has adequate procedures in place to keep it from being embroiled in corruption, then they are likely to do business with it on the merit of the business proposition it comes with rather than the perception of corruption in the country from which the business originates. If Oando PLC is able to convince the Johannesburg, the Toronto Stock Exchange and possibly the London Stock Exchange that it does have adequate procedures in place, it may yet get that London listing it seeks. The same goes for any other Nigerian business seeking to differentiate itself from the morass of corruption in business transactions in the private sector. If this is true, the regulatory agencies are hereby encouraged to make mandatory the establishment of adequate procedures against corruption so that businesses that have no interest in dealing outside the shores of Nigeria also appeal to each other thus setting off a virtuous cycle of rebuilding integrity in business practices in the private sector.