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Nigeria and the Practice of Whistleblowing – How Not to Mobilize Citizens' Participation in Anti-Corruption Programme

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ABSTRACT

Relying on the Nigerian case, this study uses the principles of public participation theory to show how faulty anti-corruption designs and implementation processes can exacerbate political corruption and breed ineffective anti-corruption regulations. Applying an exploratory research design and triangulating information from official sources and mainstream literature, the study reveals that the government's attempt to implicitly and explicitly implement whistleblowing regulations generated design lapses that prioritized monetary recovery above the need for public protection while at the same time worsening the risk of retaliation against whistleblowers. The study reaffirms the need for effective mechanisms to be put in place to guarantee protection against potential risks of retaliation and to discourage self-interested tendencies among potential citizens' participation. For example, the reward system inherent in explicit whistleblowing regulations can be redefined in non-monetary terms to make whistleblowing less susceptible to abuses by self-serving individuals.

PLAIN LANGUAGE SUMMARY

The systemic nature of political corruption in Nigeria and the unending search for solutions justify this study. As in most other parts of Africa, the reality is that the Nigerian government is losing the fight against corruption despite its long years of anti-corruption campaign. Instead of offering solutions, the anti-corruption struggles have resulted in multiple regulations and regulatory agencies that are, as shown in this study, operationally unable to curb the incidence of political corruption. Situated as an effective tool for public participation, the study contends that the success of a whistleblowing policy is dependent on how well the policy is designed to address key questions concerning the quality of protection and the motive of the inherent reward system. While public participation is recognized as vital for the success of anti-corruption campaigns in a country like Nigeria, a lack of commitment on the side of the government poses a serious constraint. A series of unsuccessful attempts at implementing a whistleblowing regulation in the country is linked to the near absence of government commitment. The study establishes that securing fruitful public engagement would require explicit regulatory guarantees that prioritize protection for persons and groups willing to participate in anti-corruption campaigns. This includes exempting whistleblowers from consequent punishment or prosecution. The reward system, which is common in most whistleblowing regulations, should be modified to moderate monetary expectations from self-serving whistleblowers. There is also a need to reform existing anti-corruption regulations and implementation

KEYWORDS

Anti-corruption regulations; whistleblowing; protection; public/citizen participation; Nigeria

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processes to target attracting public interest in the fight against corruption. This will require enhancing the capacities of anti-corruption agencies to mitigate encumbrances against pending and potential whistleblowers. The outcome of this study, therefore, calls for a systematic mainstreaming of public participation and citizens' engagement in public policy and scholarly debates, particularly as it relates to promoting effective public governance in a corruption-prone country like Nigeria.

This paper examines the practice of whistleblowing in the context of the anti-corruption regulatory system in Nigeria. It demonstrates that the systemic nature of political corruption contributes to the inability of whistleblowing regulations in the country to attract public interest. Of special concern in the Nigerian case is the popular view that the government is losing the fight against corruption due to the interferences of political leaders in the operations of the anti-corruption agencies and the alienation of public participation in governance (Arowosegbe, 2017; Ovuorie, 2022; Tade, 2021). With fewer results to show, the age-long anti-corruption struggles have resulted in the proliferation of regulatory agencies and political regime-influenced regulations whose enforcement is marred by a lack of political will and administrative inefficiencies (Adeniran, 2008; Haruna, 2008; Senu, 2020). Among other nationals in the African continent, Nigerians devote more time to discussing issues of political corruption and the weaknesses in their country's anti-corruption agencies (Nwozor et al., 2020; Tignor, 1993). The incidence of political corruption, defined as the "corruption of public officials and institutions" (Ceva & Ferretti, 2017, p. 1), has grown to a point described by Ogundiya (2009) as "endemic and intractable." It has also reached a level where, according to Agbiboa (2012, p. 325), the country's unenviable reputation as one of the most underdeveloped countries in the world is blamed on "twin woes of corruption and bad leadership." Embodied in the endemic nature of political corruption in the country are embezzlement and outright looting of public funds, procurement fraud, payroll fraud, and bribery. Procurement fraud, for instance, is said to account for up to 70% of total public sector corruption in Nigeria (Natsa, 2024).

Political corruption in Nigeria has been described in a number of ways. An example is "polite corruption," which arises from ethnic loyalties and results in a "winner-takes-all game in which power allows private appropriation of state resources" (Fischer, 2007, p. 237). Another form is nepotism, which depicts "traditional loyalties and responsibilities to family and tribe" and, in the judgment of former President Obasanjo of Nigeria, makes it difficult "to bring discipline to bear on errant members of [his] nepotic court"[1]. There is equally "alienated corruption," which is reflected in a selfish diversion of public goods due to the materialistic tendencies of those in power (Doig & Mclvor, 1999).

Although the Nigerian case appears to be more pronounced, the scourge of political corruption has become a significant feature of most African countries. A 2021–2023 Afrobarometer survey, for instance, reveals that many African countries are losing the fight against corruption; more than two-thirds of the citizens view their governments' commitments to fighting corruption as very poor, and the risk of retaliation against individuals willing to speak out has been exacerbated (Afrobarometer, 2023). As in most countries, the regulations and enforcement structures in Nigeria are defective in design and operations, resulting in exclusivity and a lack of transparency and accountability in government businesses (Lyrio et al., 2018; Sotola & Pillay, 2022). The most significant implication is that genuine public participation in the affairs of governance has dwindled over the years (Cheeseman & Peiffer, 2023; Ezeoha & Uche, 2017; Johnston, 2022).

Public participation, in the context of national governance, is defined as the act of "citizen involvement in public decision-making" (Baum, 2015, p. 625), a key feature of democracy and a measure of good governance (Houston & Harding, 2013). It is operationalized in this study as

the capacity and willingness of citizens to be part of the campaign against corruption and the enforcement of anti-corruption regulations. Public participation also has to do with the readiness of the government and anti-corruption agencies to create an enabling environment for such engagement, while at the same demonstrating a reasonable degree of accountability in the business of government (Baum, 2015; Fung, 2015; Li et al., 2022; Lyrio et al., 2018).

Public participation can occur at three different levels. The first is at the level of policy formulation, where inputs are sought from the citizens, civil society groups, and the press to enhance legitimacy and acceptability. The second is participation at the implementation and monitoring stage, while the third is at the evaluation stage. This study centres on citizen participation at the implementation and monitoring stage. Previous studies, such as Lee et al. (2023) and Rachagan and Kuppusamy (2013) have identified whistleblowing as a useful tool for citizens' participation at this stage. The concept of whistleblowing is defined by Near and Miceli (1996) as "a dynamic process *involving at least three social actors* [wrongdoer(s) who commit the alleged wrongdoing; whistle-blower(s) who observe the wrongdoing, define it as such and report it; and the recipient(s) of the report of wrongdoing], each of whom takes actions in response to the others." Embedded in the definitions and models of whistleblowing are the two key principles. First, the system adopting whistleblowing has effective mechanisms for punishing wrongdoing; second, whistleblowers enjoy a reasonable degree of regulatory protection. The latter is an essential element because a lack of protection poses a threat to respect for the rule of law (De Maria, 2005) and, as such, can undermine citizens' participation in the law enforcement process (Apaza & Chang, 2011; Delmas, 2015). The attraction hinges on the way it functions to change and trigger fundamental reforms in 'the nature and role of government in society, which sets it apart from other accountability tools (Lo Piccolo, 2023).

While whistleblowing is implicit in most anti-corruption regulations around the world, the explicit adoption of the policy has emerged in recent times to deal with the growing complexity of political corruption. Available evidence, for instance, shows that the more a country is exposed to the ills of political corruption, the more the need to encourage citizens' engagement and participation via the instrument of whistleblowing, and the more the push for the adoption of explicit regulations to protect the rights of whistle-blowers (Johnston, 2022). It is for this reason that "protection" remains an explicit element in key global efforts at encouraging countries to enact whistle-blowers' regulations. By triangulating information and data from official sources and mainstream literature, this paper employs the Nigerian government's whistleblowing policy to show how policy designs and implementation processes restrain citizens from meaningful participation in the fight against corruption.

Theorizing the link between public participation and whistleblowing as an anti-corruption regulatory tool

Public participation is defined as a process in which people and groups with statutory stakes get involved in the affairs of government to influence resource allocation, public policymaking, and policy outcomes (Imparato & Ruster, 2003). The target agents of such participation are both the citizens and civic society groups. Among others, the goal is to maintain the ideals of democratic rights and inclusive governance, as well as to enhance the understanding of public problems and potential solutions (Bryson et al. 2013). Motivated by the need for legitimization, accountability, and transparency in the affairs of government, public participation theory evolved as a framework for designing governance structures that optimally serve the needs of the citizens (Quick & Bryson, 2022). The theory postulates that individuals, groups, and organizations who influence or are affected by the decisions or actions of government should be allowed to have direct or indirect levels of involvement and share in the resources of the state (Quick & Bryson, 2022). The extent to which this goal can be achieved is dependent on the commitment of public officials and

political officeholders to strive to carry out the mandates of governance in a transparent and accountable manner (Hao et al., 2022).

While it is acknowledged that public participation is an essential feature of modern democracies and an important ingredient for legitimizing the affairs of government, clearly defining the boundaries of participation is often a complicated process. For instance, deciding on who is qualified to participate, through which channel, and the limits of participation are all issues of conflict between the government and the citizens (Quick & Bryson, 2022). Lack of readiness on the side of governments to function transparently and in an accountable manner also erodes legitimacy and public acceptability, which in turn discourages participation (Liu et al., 2023; Potipiroon & Wongpreedee, 2021). This is especially the case in weaker democracies where public governance is delimited merely as "a set of rules, procedures, and institutional design" (Curato, 2015), and political participation is restricted to citizens' right to vote in every election cycle (Bernhagen & Marsh, 2007; Fung, 2015).

Figure 1 below shows the three stages in which public participation occurs – namely, the policy formulation, implementation, and evaluation stages. From a theoretical perspective, the condition precedence for effective democratic participation is the ability and willingness of the citizens to directly or indirectly make inputs in the formulation and implementation of public policies. This is the case with the enforcement of anti-corruption laws where the existence of an inherent mechanism for citizens' participation is key for successful enforcement. As it affects the enforcement of a national whistleblowing policy, which is the focus of this study, providing citizens an opportunity to track and report incidents of corruption and abuses of public offices is imperative. This is especially true for tackling political corruption where there is a higher likelihood of compromise and collusion among policymakers, policy implementors, and the law enforcement organs of the government (Ghosh, 2024; Verdenicci & Hough, 2015). Schultz and Harutyunyan (2015) capture political corruption mainly as "illegal behaviour" by the officials of government targeted at "personal financial gains." The collaborative support from the citizens becomes inevitable because such vices are, in the words of Kuwali (2024), committed "covertly by affluent and influential individuals motivated by greed and power who can undermine antigraft efforts."

Desiring that citizens participate in anti-corruption programmes is one thing, and being able to mobilize effective participation is another. First, the design of anti-corruption regulations must be such that empowers citizens to, as a matter of national value orientation, act against those who behave in a corrupt fashion (Verdenicci & Hough, 2015). The second point is the need to recognize that the risk of victimization and retaliation associated with the fight against corruption

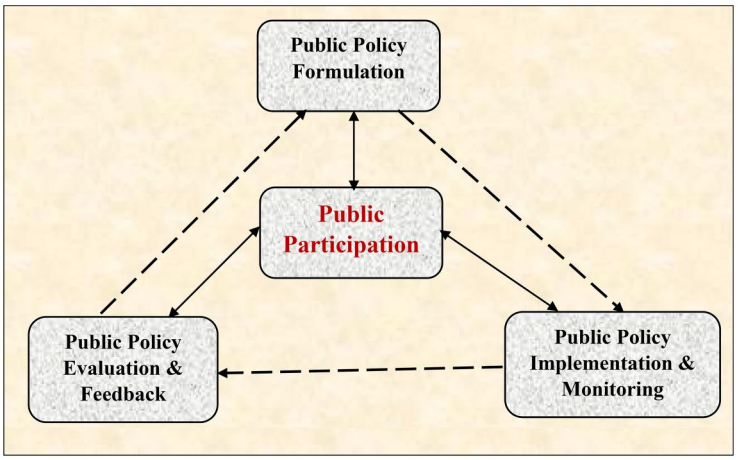

Figure 1. Levels of public participation in governance.

is higher in anti-corruption regulatory enforcement than in other aspects of public governance (Anya & Iwanger, 2019; Onyango, 2021; Verdenicci & Hough, 2015). Mobilizing participation without first addressing the high-risk components is thus considered counterproductive.

The need to provide citizens enough ground to participate in anti-corruption by reporting incidents of corruption offers justification for the official adoption of whistleblowing protection regulations in most countries. Majiga (2024) identifies that whistleblowing provides potential opportunities for citizens to actively participate in the fight against corruption, especially as it concerns the need to protect the "socio-economic and political rights in democratic societies." This approach, as posited by Schultz and Harutyunyan (2015), has allowed for the standardization of the process of reporting political corruption and forcing the government's attention against the act.

Figure 2 illustrates the interactions between the different means for public participation on one hand and the dynamism of anti-corruption regulatory enforcement on the other. It shows that anti-corruption policy outcome is dependent on the tools for public participation and how effective the tools are in content and design. In the case of whistleblowing, for example, the attraction may depend on the firmness of the protection and reward provisions. All things being equal, a higher level of participation and positive policy enforcement outcomes are guaranteed where the quality of protection is high and the reward system is designed to discourage self-

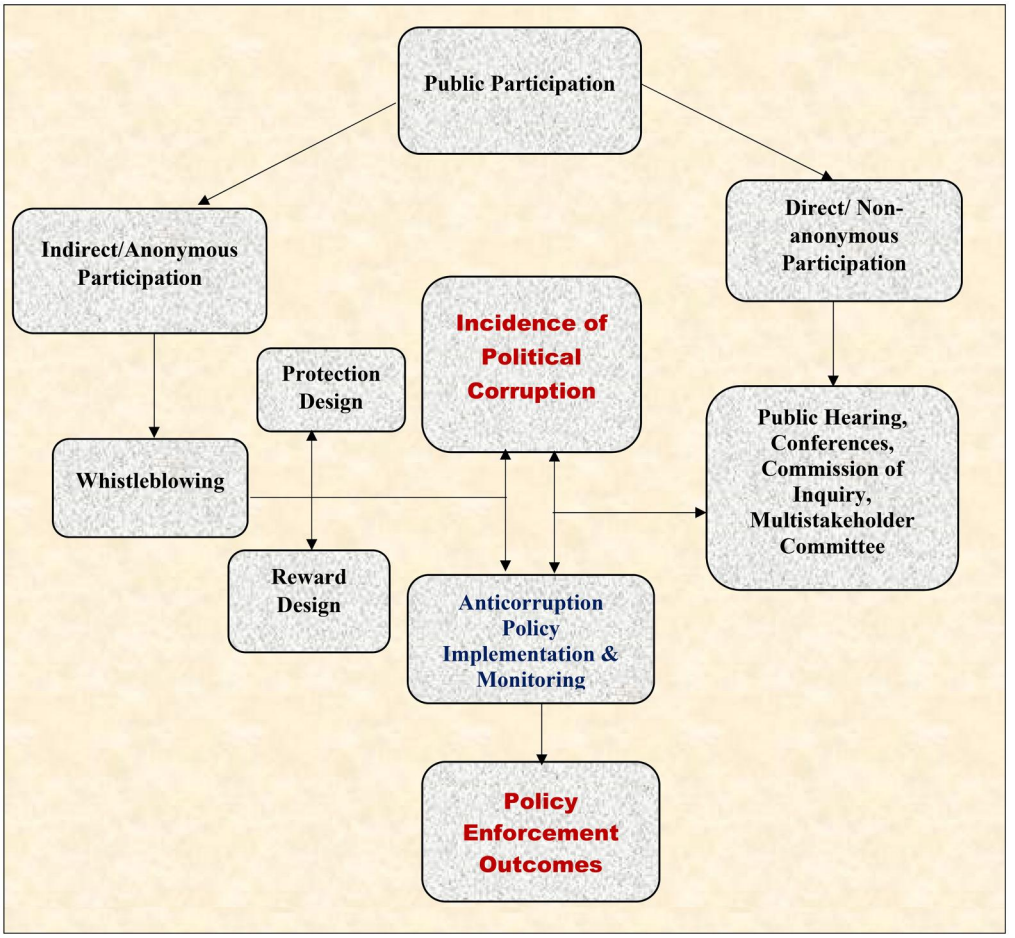

Figure 2. Interactive effects of public participation tools on anticorruption policy outcomes.

interested whistleblowers. The underlying assumption here, however, is that the existing institutions for anti-corruption regulation are, in essence, detached from politics.

As demonstrated in this paper, the Nigerian context mirrors an attempt by the government to mainstream whistleblowing as a tool to attract citizens to participate in the country's age-long fight against corruption. Before 2016, the country had implicit provisions for whistleblowing in its anti-corruption regulations. They included extant provisions in specific anti-corruption laws such as the Code of Conduct Bureau and Tribunal Act (1988), the Economic and Financial Crimes Commission Act (2002), the Corrupt Practices and Other Related Offences Act (2000), and the Money Laundering Act (2004). An explicit policy approach took off in 2016 following the Nigerian government's adoption of a National Whistleblowing Policy. Available statistics show that neither the earlier regulations nor the 2016 explicit policy have been able to curb the spade of political corruption in the country. This paper, therefore, specifically explores to link the failure of the whistleblowing policy in Nigeria to the issues of poor policy design and the systemic nature of political corruption in the country. Both challenges, as demonstrated, join to cause the exclusion of most of the citizens and the general public from meaningful involvement in the affairs of the state.

Methodology

The nature of the research subject and the complexity of anti-corruption regulations in Nigeria justify the choice of an exploratory research design for this study. Despite its endemic nature, there is too little streamlined and valid quantitative data on the size and scale of political corruption in the country to warrant an empirical quantitative analysis. This is despite the existence of a multiplicity of implementation actors and preponderance of the arising reports, which is contrary to the position of Hill and Hupe (2002, p. 143) that the "factors that influence implementation are more likely to be in the public arena, and data assembly may be easier." There is no doubt cross-sectional data from national and international watchdogs like the Afrobarometer and Transparency International. However, such data largely involves cases of bribery among public officials, the scope of which is often insufficient to cover the intricacies of political corruption. In addition, the explicit whistleblowing policy has, since its adoption in 2016, been implemented without measurable and accessible outcomes (Gholami & Salihu, 2019; Okafor et al., 2020).

Consequently, this study relies on content analysis of information from four major sources. The first includes information from mainstream reviews and empirical literature sources. An Internet search, using Google Scholar, was relied on to collect information based on search terms like "political corruption in Nigeria," "theory and determinants of public participation," "public participation and anti-corruption regulation," "whistleblowing as a tool for public participation," and "whistleblowing and anti-corruption campaign." For validity, it is important to note that only reports and scientific studies hosted by mainstream global publishing houses and international organizations were used in this study. The second is the reported cases of political corruption handled by three major anti-corruption agencies. The cases touched on in this paper largely include those handled by the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices Commission (ICPC), and the Nigerian Police. The third comprises reports in mainstream local and international media renowned for investigative journalism[2]. The fourth involves secondary quantitative data sourced from the Afrobarometer Survey Database. The information and data from these sources were then triangulated to identify the patterns and consequences of reports against political corruption in Nigeria, as well as the weaknesses in the design of public participation tools like the whistleblowing policy. Triangulation enabled us to assess the provisions of the anti-corruption regulations in Nigeria, qualify the levels of corruption and public participation, and benchmark reports from official records of government with

empirical findings from existing literature. The aim of this, in line with Denzin (2012), is to ensure that the analysis is valid and that the conclusion reached is reliable to aid public policy.

Regarding the variables of interest in this research, the units of analysis involve anti-corruption regulations, whistleblowing, and public participation. Operationally, whistleblowing, as applicable in this study, is the act of reporting cases of large-scale corruption that threaten public and national interests. The classes of corruption covered in this study are largely political corruption, which, as emphasized by Ceva and Ferretti (2017) and Bardhan (2017), manifests when government officials exploit their positions for personal gain. Consistent with Lo Piccolo (2023), anti-corruption in the same vein is taken as all efforts of the government targeted at punishing or disincentivizing corruption.

Results and discussion

The anti-corruption regulation landscape in Nigeria

Results from this paper confirm the claim that Nigeria operates multiple anti-corruption regulatory regimes. The proliferation of anti-corruption regulations is often a result of the systemic nature of corruption in Nigeria (Richards & Eboibi, 2021). Empirical evidence from Oluseye (2024) and Hope Sr. (2017) shows that systemic corruption is such that the processes of law enactment, administration, and enforcement are polluted and suffer varying degrees of abuse. This often leaves the government with an unending search for an optimal anti-corruption arrangement and the resultant proliferation of the instruments and structures for anti-corruption. Table 1 below shows that in addition to the 2016 Whistleblowing Policy enacted by the Nigerian government, there are at least nine extant anti-corruption regulations directed at addressing issues of corruption and fraud in both private and public sectors.[3] The pattern in Nigeria is consistent with a piece of evidence from Menzel (2012) indicating that persistent corruption creates an ethical vacuum that can destroy "even the most well-conceived policies, plans, and day-to-day operations of government."

As established in earlier studies (such as Ogbe & Ejovi, 2020; Aigbovo & Atsegbua, 2012; Adebanwi & Obadare, 2011), the multiplicity of anti-corruption regulations in Nigeria can be linked to regime change. Table 1 of this paper shows that, over the years, each government regime has come with its own set of regulations and programmes, at least in principle, to fight corruption. What is lacking in this regime-based approach is a visible lack of commitment to the genuine implementation of the programmes.

A review of media and official reports on political corruption in the country also reveals a trend where implementation failure brings about a culture of blame that manifests at the point of regime change. For instance, the rate of corruption in the country even as far back as 1970 was such that the then Military Head of State, General Yakubu Gowon regretted that "Nigeria has never had it so bad" (cited in Emiko, 1977, p. 17). Ironically, General Gowon was later overthrown by General Murtala Muhammad as a result of corruption; and the same reason led to the bloody coup that assassinated General Murtala (Olayiwola, 1991). That Nigeria revealed "in squandermania, corruption and indiscipline" was established by Ukaegbu (1997) as a strong reason General Mohammadu Buhari gave for overthrowing President Shehu Shagari's civilian government in December 1984. As a blowback, General Buhari was overthrown in August 1985 by General Badamosi Babangida because General Buhari planned "to purge the military hierarchy of corruption" (Abubakar, 2014).

Anti-corruption discourse characterizes the electoral campaigns and inaugural speeches of succeeding presidents since the return to civilian rule in 1999. This was also the basis for the adoption of the 2016 nationwide Whistleblowing Policy. General Mohammed Buhari, who won the 2015 Presidential Election, qualified that his "electoral victory could not be separated from the

Table 1. Chronology of Nigeria's anti-corruption frameworks.

Regime	Anti-corruption framework	Objective
General Yakubu Gowon	Public Officers (Investigation of Assets) Decree No. 5 of 1966	To check corruption
	Investigation of Assets (Public Officers) Validation Decree No. 45 of 1968	To check corruption
General Murtala Muhammed/General Olusegun Obasanjo	Corrupt Practices Decree of 1975	To curb corrupt practices in the public and private sectors
	The 1979 Constitution, which provided for the Criminal Codes, the Code of Conduct Bureau, and Code of Conduct Tribunals	To control criminal and corrupt practices
President Shehu Shagari	Ethical Revolution Public Complaints Commission	To fight corruption in the public sector
General Muhammadu Buhari	War Against Indiscipline	
	Recovery of Public Property (Special Military Tribunals) Decree No. 14 of 1984 (as amended in 1986	To try Second Republic politicians, ministers and political advisors for corruption
General Ibrahim Babangida	Corrupt Practices and Economic Crime Decree and Independent Commission Against Corruption, 1990	To fight corruption in the public and private sectors
General Sani Abacha	Indiscipline, Corrupt practices and Economic Crime (Prohibition) Decree 1994	To fight corruption in the public and private sectors
	Failed Banks (Recovery of Debts) Decree of 1994	To legalizes detention of executives of some (failed) banks
	National Economic Intelligence Committee (Establishment, etc.,) Decree No. 17 of 1994	To analyse the annual budget, the monetary and fiscal measures and to monitor, assess and enforce fiscal behaviours of public officers.
	Advance Fee Fraud Decree of 1995	To prohibit and punish certain offences pertaining to Advance Fee Fraud and other fraud
General Abdusalami Abubarka	The 1999 Constitution, which provided for Judicial Commissions of Inquiry, The Code of Conduct Bureau and Tribunal Act., and Public Complaints Commission, and the Criminal Codes	To control criminal and corrupt practices
President Olusegun Obasanjo	Forfeiture of Assets Decree No 53 of 1999	To enforce forfeiture of assets of corrupt officers and politicians
	Corrupt Practices And Other Related Offences Commission (and its enabling Act), 2000	To receive and investigate reports of corruption and in appropriate cases prosecute the offender(s)
	Economic and Financial Crimes Commission (and its enabling Act), 2002	To prevent, investigate, prosecute and penalise economic and financial crimes and to enforce the provisions of other regulations relating to economic and financial crimes
President General Muhammadu Buhari	Whistleblowing Policy, 2016	To increase exposure of financial crimes and rewarding of whistle-blowers

revolt of the people against glaring endemic corruption" (Agbakwuru, 2018). Buhari's victory against President Goodluck Jonathan was unprecedented given that it was the first time a sitting president would lose an election in the history of Nigeria; with Nossiter (2015) describing it as "the most competitive presidential race ever in Nigeria." Yet, the end of President Buhari's eight-year tenure in May 2023 was criticized in strong terms as one where "cronyism and nepotism in [Buhari's] key appointments conflated with the working of government agencies at cross-purposes to fuel corruption" (Obadare, 2023).

The cases presented in this paper, which describe the processes of investigation and litigation, reveal how systemic corruption is in Nigeria. Nepotism and ethnic partiality, which provide shields for corrupt practices, are found to be so mainstreamed into official government conducts (Folarin, 2021). The level of nepotism is documented by Smith (2006, p. 74) to be such that friends and relatives can quickly view a scrupulously honest individual occupying a sensitive public or private office as "a fool for benefiting so little from such an important post." Characteristic of the country's case is that even in obvious cases of corruption and wrongdoing, the Nigerian government allows itself to be engulfed in what the former President, Olusegun Obasanjo, described as the "culture of denials, cover-ups, and proxies" (Obasanjo, 2013). This tendency is confirmed in previous studies, such as Folarin (2021), Odoemene (2012), and Adebanwi and Obadare (2011). It was in this context that Folarin (2021, p. 1) concluded that "politics and government of Nigeria have suffered for too long in the hands of habitual and unrepentant treasury looters, political jobbers and beneficiaries of interminable orchestrations of scandals and frauds."

Public restraints and the anti-corruption regulatory enforcement

There is an indication that a significant correlation exists between the incidence of corruption and the strength of governance institutions in place in Nigeria (Aigbovo & Atsegbua, 2012; Hope Sr., 2017). This is the case where public participation in the political and governance process is constrained by the legitimacy burden against law enforcement agencies. Available ethnographic evidence reveals this as being the situation in Nigeria, where the existing law enforcement institutions are too weak to enforce any legal provisions on protection (Okafor et al., 2020; Onyango, 2021) and where there is a trust deficit against those institutions (Adelopo & Rufai, 2020; Bamidele et al., 2016). The country, for instance, came 39th out of 39 countries surveyed by Afrobarometer in 2022/2023 concerning the level of trust in the police. Drawn from the Afrobarometer Survey report, Figure 3 illustrates how corrupt the public perceived the key institutions of governance and law enforcement. In all, more than 90 percent of the surveyed population perceived some or most, if not all, of the presidency, the parliament, the judiciary, the police, the civil service, and the tax officials to be corrupt.

That the anti-corruption regulatory enforcement often suffers more from implementation than design is historically evident. At the inception of the military regime in the country, as profiled in Table 1, "the Public Officers (Investigation of Assets) Decree No. 5 of 1966" and other similar regulations were enacted to induce reports of corrupt practices from concerned citizens. The call for public participation also manifested in the launching of the War Against Indiscipline and Corruption (WAIC) in May 1984, when the then-military ruler, Gen Mohammadu Buhari, highlighted the need to "mobilize the nation to fight against corruption and economic crimes" (BBC, 1994). Other prominent decrees promulgated by the military regimes that relied on information and evidence solicited from the public were the Banking (Freezing of Accounts) Decree No. 6 of 1984, Failed Banks Decree No. 18 of 1994, and Failed Parastatal Decree No. 35 of 1995.

The need for protection is no doubt clear in the country's anti-corruption history. Examples include Section 23(3) of General Yakubu Gowon's 'Corrupt Practices Decree No. 38 of 1975 which sought to protect individuals called to testify in the Corrupt Practices Investigation Bureau Tribunal (Emiko, 1977), and the protective clause in the Money Laundry Decree No. 3 of 1995

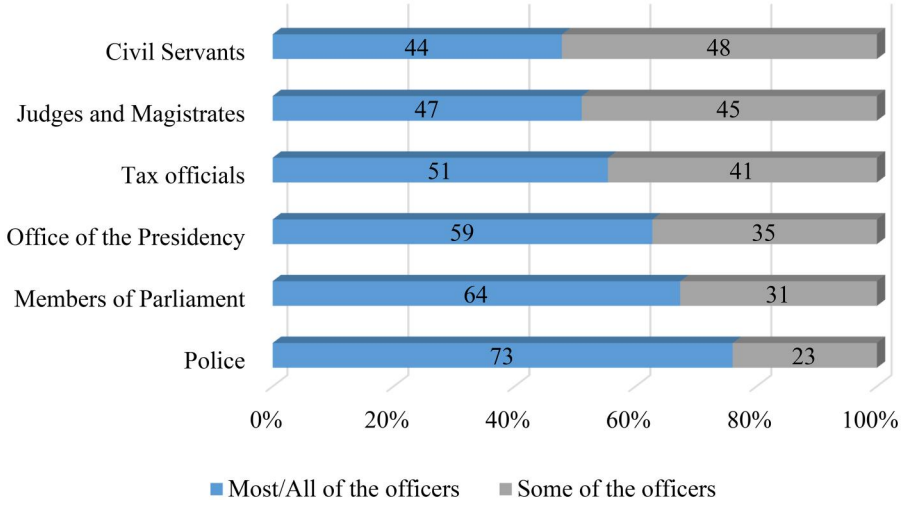

Figure 3. Perceived corruption among institutions.*Source:* Kweitsu (2023).

which exempted from punishment individuals who complied with the provisions of the Act in good faith to offer disclosures to the tribunal. More recent provisions, such as Section 39(1) of the EFCC Act of 2004 and Sections 28 and 64 of the ICPC Act of 2000, make it obligatory on the part of the agencies to shield from retaliation or prosecution individuals who disclose in good faith information believed to be evidence of corrupt practices. It is clear from available statistics and empirical evidence that the protection clause is rarely enforced in the case of Nigeria (Gholami & Salihu, 2019; Okafor et al., 2020). Of the 39 African countries that responded to the question of whether ordinary citizens can report corruption without fear, for instance, Nigeria came second to last after Gabon, with up to 86% of the participants expressing fear of retaliation (Afrobarometer, 2023). Only 10% answered otherwise.

The challenges that often restrain public participation have also been attributed to the repressive influence of long years of military rule and the absence of ideal principles in democratic practices (Oloyede, 2004; Osoba, 1996). Although the military governments acted as though they were inclined to public participation, their actions infused fear into the minds of the general public. For example, General Yakubu Gowon's military government "placed obstacles in the way of citizens trying to accuse officials of corruption in the courts" (Abubakar, 2014). The military government that overthrew General Gowon on 30 July 1975 promulgated a decree that imposed severe penalties against individuals who gave "untrue" accusations against public officials[4] – a decree that was described as being capable of stifling criticism and offering protection to corrupt officials (Darnton, 1976). Attempts at enforcing this resulted in severe media clampdowns, as reflected in the proscription of several newspapers and media houses within the period[5]; the assassination of the publisher of Newswatch Magazine, Dele Giwa, in October 1986; an assassination attempt on the publisher of The Guardian, Alex Ibru, in February 1996; and a widely reported torture case involving the publisher of the Horne Newspaper, Onii Egbunine, in 1997 for publishing a story alleging corruption at the highest levels of the government (The US Department of State, 1998). The different anti-corruption regulations and enforcement agencies established by the civilian government of President Olusegun Obasanjo also made explicit provisions on the need to protect members of the public who are willing to participate in the government's anti-corruption programmes. The implementation was, however, marred by what Human Rights Watch (2007) described as inept backing of the government and citizens' fear of retaliation by the authority.

The emergence of explicit whistleblowing regulation and the push for participation

Nigeria has experienced two different regimes of anti-corruption regulation – the implicit and the explicit whistleblowing regulatory regimes. Between the two, there is evidence of significant reluctance on the side of the government to adopt an explicit model of whistleblowing. In 2002, for instance, a whistleblower protection Bill drafted by Transparency International Nigeria was submitted to the National Assembly. The bill failed because no member of parliament would sponsor it (Onwubiko, 2017). Five years later, a similar bill titled "Whistle-blower Protection Bill, 2008 (H.B. 117)" was sponsored by a member of the Federal House of Representatives. The bill sought to protect individuals who might, in the public interest, disclose information related to unlawful or other illegal conduct or corrupt practices. Support for the bill was again frustrated by what the members of the country's parliament described as "centripetal and centrifugal forces not willing to see to an end to the ballooning regime of corruption" (National Assembly, 2018). In the same year, another bill (Whistle-blower Protection Bill, C4781) surfaced but suffered a similar fate in the Senate. In 2009, a similar attempt (Safeguarded Disclosure Whistle-blowers, Special Provisions, etc. Bill, 2009 (H.B. 167)) was re-launched in the Senate to legalize and streamline the practices of whistleblowing in the country. Like its predecessors, the 2009 bill was dead on arrival.

An amended version of the Whistle-blower Protection Bill (along with a sister bill – Witness Protection Bill) was introduced in the Senate in 2015 by Senator Biodun Olujimi. This time, the bill passed through the first and then the second reading in October 2016 and was eventually passed by the Senate in July 2017. While announcing the passage of the bill, the senate president, Dr. Bukola Saraki, stressed that a landmark has been made today, and this will help patriotic individuals who risk their lives in the fight against corruption (Oluwagbemi, 2017). Rather than waiting for the passage of the Bill in the Senate, President Buhari in December 2016 announced the introduction of the national Whistleblowing Policy, through Executive Order 6 (Federal Government of Nigeria, 2016). The emergence of this policy thus allowed the government to shut down mounting pressure from civil society groups and international anti-corruption watchdogs and to jettison the success of the whistleblowing protection bill at the legislative end. It was only in the last month of President Buhari's tenure in May 2023 that an amended Whistleblower Protection Bill was transmitted to the federal legislature. One year into office of the new president, Bola Ahmed Tinubu, the bill still lies fallow at the Senate without any reference nor an attempt at finally passing it for transmission for presidential assent.

While it is not in doubt that the Whistleblowing Policy introduced by the Nigerian government in 2016 was designed to attract public participation, the policy was self-defeating for a number of reasons. Key among others are the lapses in the design and implementation process, undue emphasis on the recovery of stolen public funds over the need for protection, and some kind of technicalities that make the proof of any claim for rewards near impossible. The following subsections take an analytical review of these lapses.

The design lapses – subjugation of protection

The theoretical framework for this paper shows that the success of a whistleblowing policy is linked to how well it is able to guarantee the protection of citizens willing to participate in the implementation and monitoring. Having an effective protective mechanism in place "is recognized as an essential element for safeguarding public interest, promoting a culture of public accountability", and in many countries, "crucial in the reporting of misconduct, fraud and corruption" (OECD, 2015). It is in avoidance of this challenge that "best practices" opt for titles that exclude the term "whistleblowing" but include "protection" (e.g., the UK "Public Interest Disclosure Act, 1999 (PIDA);" South Africa's "Protected Disclosure Act, 2000;" Israel's

"Protection of Employees (Exposure of Offences of Unethical Conduct & Improper Administration) Law, 1997;" and New Zealand's "The Protected Disclosures Act, 2000").

In the case of Nigeria, the first major design issue against the government-backed 2016 whistleblowing regulation is the omission of a "protection" clause in the title of the policy. The explicit use of "whistle-blowing" and the exclusion of the word "protection" in the title triggers "some negative implication to the overall objective of the policy and its appropriation" (Sule, 2010). Concerning placing a higher premium on financial recovery over whistle-blower protection, Nigeria's Attorney General of the Federation (AGF) and Minister of Justice admitted that 'the whistleblowing policy was defective" (Ojobo, 2023).

Defective policy design weakens protection and intensifies the art of retaliation in the enforcement process. The absence of effective protection mechanisms that keep the whistle-blowers safe from the prevalent risk of retaliation suggests that the whistle-blower has no guarantee of safety and that the wrongdoing reported will be properly prosecuted. A reader's comment in Premium Times Newspaper of April 16, 2018, captures this situation: "Blow a whistle and you will regret it … You will be made to swallow the whistle after blowing it".

Available evidence also shows that the act of whistleblowing in the country may be transactional being that the information supplied may be traded on or even erased for a cover-up (Gholami & Salihu, 2019). This was the case in the widely publicized arrest by EFCC of two whistle-blowers (Buhari Fannami and Ba-Kura Abdullahi) in Maiduguri, Bornu State in 2017. The whistleblowers were arrested and prosecuted for "information about illegally acquired monies purportedly buried at the residence of one Ba'a Lawan, but the information [allegedly] turned out to be false after the execution of a search warrant" (EFCC, 2017). Referencing Section 39 subsections 2a and 2b of the EFCC (Establishment) Act 2004, the agency charged the two whistleblowers to a Federal High Court in Maiduguri. Swifter than would have been the case if the information were "true," the two men were arrested and publicly treated like criminals. The anti-graft agencies, EFCC and ICPC, have capitalized on this kind of treatment to send warnings to "unscrupulous" whistleblowers without regard to the psychological damage to the culture of whistleblowing in the country.

The lack of functional design to protect the members of the public who are willing to participate in regulatory enforcement results in a loss of steam in the implementation and institutionalization process (Gholami & Salihu, 2019; Ojobo, 2023). It was in recognition of this defect that officials of relevant government ministries and civil society organizations[6] in November 2019 gathered in a workshop to review the implementation of the policy in the country and to chart a way forward. This was part of the attempts "towards legalizing and institutionalizing the whistleblowing policy to meet international best practices" (Francis, 2019).

The claim that the 2016 Whistleblowing Policy was "losing momentum" (Angbulu, 2022) consequently on 14th December 2022 led the Federal Government to approve what it referred to as "a new Whistle Blower draft bill." Providing further grounds for the re-launch of the bill, the then Minister of Finance expressed a fear that "people are concerned about their safety due to providing information" (cited in Angbulu, 2022).

On the state of the policy (and bill), Human Rights Writers Association of Nigeria (HURIWA) alleges that the EFCC and the ICPC are "responsible for destroying the policy" (The Guardian Editorial Board, 2023). Collaborating this stance, a report by the International Centre for Investigative Reporting (ICIR) chronicled a number of cases where the merits of the revelation made were abandoned and the whistleblower punished at the altar of "breach of oath of secrecy, unauthorized disclosure of official information and abstraction or copying of official documents without approval as enshrined in Public Service Rules" (ICIR, 2023). The weaknesses in the governance and regulatory institutions in handling reported cases are well-documented. As shown in Figure 4, estimated from the 2021/2023 Afrobarometer survey report, the inability of law

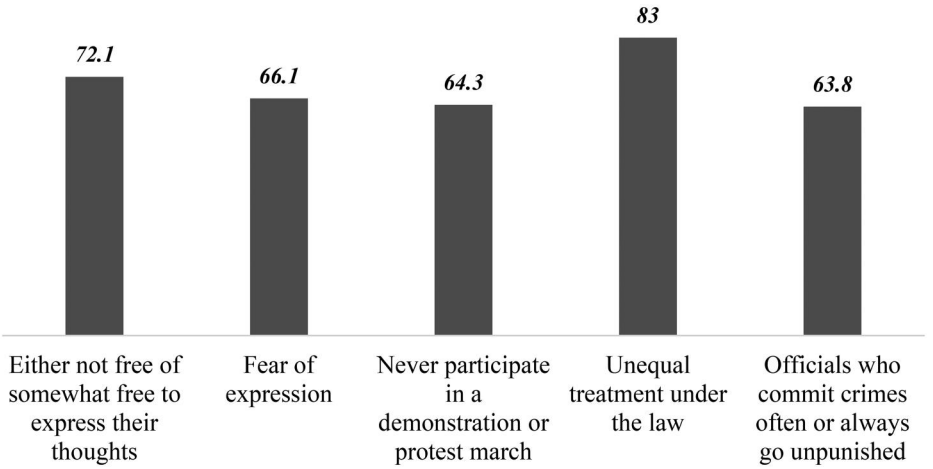

Figure 4. Degree of disengagement of the people from issues of governance (%).*Source:* 2023 Afrobarometer Survey Report.

enforcement agencies to deal with reported cases and the fear of reprisals constitute a major reason for not reporting corruption in the country.

By emphasizing cash recoveries and swift punishment of those who "waste their time", the anti-corruption agencies appear to have betrayed their main intents for whistleblowing policy enforcement. This position was acknowledged by the immediate past Chairman of EFCC who emphasized that "it is also not impossible that the few false informants, who were prosecuted for wanting to turn a serious programme into a joke, discouraged other would-be informants" (The Guardian Editorial Board, 2023).

Emphasis on cash recovery is defective in some ways. The first is the monetization of the entire process of whistleblowing (Okafor et al., 2020; Tade, 2019). The second is the circumscription of the primary need for the protection of the participants (Onyango, 2021). Monetization exposes policy enforcement to the highest bidder syndrome and renders the anti-corruption regulatory process transaction. As the Nigerian case shows, there are instances where looted funds got re-looted and not accounted for at all. During a 2017 "Strategic Retreat on Tracking the Progress of Anti-corruption Bills in the National Assembly", for instance, the Senate President (Bukola Saraki) accused the anti-graft agencies of handling the management of recovered funds in a shrouded manner that caused the recovered funds to be easily "re-looted by the agencies that investigated and recovered them" (Oyedele, 2017). Similarly, upon inquiry, the World Bank in 2017 told the Socio-Economic Rights and Accountability Project (a local non-governmental anti-corruption organization) that the Bank had lost track of information concerning the way about of Abacha's recovered loot (World Bank, 2017). The most ironic case of such re-looting relates to the ₦16 billion (equivalent of about U.S.$53 million in 2017) recovered from the then Inspector General of Police, Tafa Balogun, which went missing without a trace. EFCC claimed it had no record of what was recovered from the police chief and a probe by the House of Representatives Committee on Police Affairs yielded no result (Ekundayo, 2017). A suspicion that the recovered loot might have been re-looted and a federal high court order forced President Buhari to set up an audit committee in November 2017 "to audit assets and loots recovered by the government agencies" (Oluwagbemi, 2017). The outcome of the audit committee assignment is yet to be made public. Studies have shown this to have a significant negative effect on state legitimacy and public trust (Siddiquee & Zafarullah, 2022).

Faulty reward system

Emphasis on monetary reward constitutes another defective aspect of the anti-corruption and whistleblowing regulatory design in Nigeria. This is consistent with the outcome of a recent study

by Ntiamoah et al. (2024) that demonstrated the weak effect of financial reward on the intention of an individual to report tax evasion in Ghana. A study in China also reports that whistle-blowers are among other reasons motivated by the need to safeguard their interests and to protect their rights (Chiu, 2003). There are equally results showing that monetary rewards in a whistleblowing practice are not only self-serving but can "symbolize other things that overshadow the economic significance and have little to do with self-interest" (Lawler, 1971 cited in Callahan & Dworkin, 1992). Yet, in the case of Nigeria, the catchiest feature of the whistleblowing policy is its promise of financial reward. The 2016 Whistleblowing Policy promised award financial rewards ranging from 2.5 percent to 5 percent of the amount recovered for individuals willing to volunteer authentic information on stolen or concealed public funds or assets (Federal Ministry of Finance, 2016).

Teichmann and Falker (2021) and Andon et al. (2018) found that emphasis on monetary reward is responsible for the ineffectiveness of whistleblowing regulatory enforcement in many countries. This is reflective of the situation in Nigeria. First, the reward system is defective because of the inherent assumption that all cases of whistleblowing involve money and the compensations and incentives should be spelled in monetary terms. The policy fails to address the fundamental moral complexity of the country's current cultural and normative postures (Ojobo, 2023). It neither addresses questions as to what happens when wrongdoing takes the form of other prevalent forms of corruption in the Nigerian context (e.g., non-monetary matters like stealing of assets, favouritism in selection and promotion processes, ghost workers or payroll frauds, contract inflation, and conversion of government assets to personal use). If, as implied in the policy, such disclosures are not financially rewardable, what is the guarantee that the individual would be motivated to make such disclosures? With this kind of policy mindset, the whistleblowing policy ends up scratching the symptom without meaningfully attacking the main problem.

The reward system in the whistleblowing regulation has also been criticized because participants might be moved more by private interest. Studies focusing on private interest in public interactions with governance institutions show that self-serving interests arise when individuals attempt to exchange information for personal benefits (Heumann et al., 2013). In Nigeria, legislative attempts to incentivize the act of whistleblowing add more weight to this self-serving motive. In defense, the Nigerian government's justification for financial reward is that many Nigerians mistrust the government, and "the reported high interest shown by many to become whistleblowers is driven more by the love for lucre than any patriotic zeal" (Onyeacholem, 2023).

Second, the process of determining what constitutes a reward and what is rewardable is among the most controversial aspects of whistleblowing regulation in the country. Even when rewards are properly determined, for example, their actual payments from recovered monies without statutory appropriation itself are against the spirit of Section 13 Subsection 3 Part IV of the EFCC Act. The provision stipulates that "all monies received by the Commission under the provisions of Subsection (2) of this Section shall be paid into the Consolidated Revenue Fund of the Federation," and Chapter 5 of the Federal Constitution places strict conditions under which monies can be withdrawn from the Consolidated Revenue Fund[7]. This concern is heightened by an Appeal Court judgment on J.A.O Wilkie v. FGN & ORS, where the plaintiff sought to establish "whether Government Policies such as the Monetization Policy and such related policies on which the Appellant has anchored his claim do confer a cause of action on a party in the first place?"[8] The court ruled that "a policy statement or guideline by the Federal Government does not give rise to a contractual relationship between the Government and a third party, and its non-implementation does not entitle the third party to a legal redress against the Government".[9] By this ruling, payment of monetary rewards to whistleblowers cannot, therefore, be legally binding on the government.

The reward system is rendered unattractive by the fact that the actual payment may be subject to controversies and litigations. For example, the provision of the Whistleblowing Policy requiring

that the whistleblower can only be rewarded "if there is a voluntary return of stolen or concealed public funds or assets on account of the information provided" (Adibe, 2017) leaves much to be desired. The implementation runs into a ditch when "the information supplied is authentic, but the holder of the loot refuses to give it up voluntarily and the government is only able to recover the loot through litigation or some other means" (Egbe, 2017). The government has also been cited as stating that "delays in getting compensation, as whistleblowers could not get compensated until the court rules for final forfeiture of the money in question, could be responsible for the development" (Onyedika-Ugoeze, 2020). Resolving this dilemma requires that in the proposed Whistleblower regulation, the need for protection should be prioritized over and above financial rewards. In the same way, the moral contents of such a regulation should be placed above foreseeable legal technicalities.

Discussion

The theoretical projection of Ouriemmi (2023), Potipiroon and Wongpreedee (2021), Menzel (2012), and Szeftel (1998) about the changing nature and incidence of political corruption and the loosening commitments of governments is confirmed in this study. The result specifically demonstrated how, over the years, the scope of political corruption widened to become mainstream and "systemic" in the Nigerian governance space. This dynamism is credited to the government's fruitless efforts via multiple anti-corruption regimes. The evolution of systemic corruption caused the government to resort to the use of extra-judiciary enforcement methods and resulted in shirking the space for public participation in public governance. Linked to this is the dis-incentivization of public participation in good governance-related courses. A situation where up to 90% of the citizens expressed mistrust against the institutions of governance and a majority (up to 70%) feel either not free or reluctant to openly express their views against the government for fear of retaliation (according to Afrobarometer 2021–2023 data) is evidence of how widened the gap between the citizens and the government has become in the case of Nigeria.

The implication of the above, as earlier emphasized by Imparato and Ruster (2003) and Quick and Bryson (2022), is the tendency to exclude many Nigerians from resource allocation and other critical public governance-related policy decisions. That the citizens are unsatisfied with the way democracy works in Nigeria, and believe that the country has either regressed or made no progress in terms of ideal democratic practice is a contradiction of the conventional principles that promote effective public participation in governance and government legitimacy. Contrary to the views expressed by Curato (2015), democratic practices in the country are narrowed to exclude citizens' participation beyond matters of elections and essentially lack what is described as a "procedurally just process". The Nigerian case, therefore, confirms that the absence or low level of public participation coincides with a consistent, or even growing, incidence of corruption and an exacerbated risk of retaliation against whistleblowers, as well as a proliferation of ineffective and inefficient anti-corruption regulations and structures.

The Nigerian case confirms the difficulty in fighting political corruption without the active participation of the citizens. This is because that type of corruption involves some level of compromise and collusive tendencies between the anti-corruption agencies and the political office-holders. It also generates higher risks of victimization and retaliation against the enforcement agents and individuals volunteering to participate. Under this circumstance, the adoption of a national whistleblowing protection policy becomes imperative to match the complexity of political corruption and encourage citizens' engagement and participation. The theoretical framework of analysis adopted in this study provides that for explicit adoption of whistleblowing to be effective, the process must guarantee protection, make provisions for a reward system that discourages self-

interested whistleblowers, and ensure that institutions for anti-corruption regulation is detached from politics.

Reyling on an exploratory research design and triangulating information from official sources and mainstream literature, the study finds that the Nigerian system does not meet the conditions under which whistleblowing can serve as an effective tool for citizens' participation in anti-corruption regulations. First, analysis of the data from the Afrobarometer Survey provides evidence to show how the prevalence of political corruption in the country beclouds accountability and discourages public participation in the affairs of the government. As the findings reveal, there is a high level of public trust deficit against major institutions of governance in the country, including the presidency, the parliament, the judiciary, the police, and the civil service. Even the operating mechanisms of the premium anti-corruption agencies, the EFCC and ICPC, are counterproductive against the overall intent of the country's anti-corruption programmes. Secondly, neither the earlier practice of implicit nor the later adoption of explicit whistleblowing regulations adequately and genuinely provided for the protection of whistleblowers. The lack of an effective protection clause and the enforcement thereof, in line with evidence from Ojobo (2023) and Gholami and Salihu (2019), is responsible for the loss of interest of the citizens in the fight against corruption. Third, the monetary reward system, which was a significant feature of the 2016 Whistleblowing Policy enacted by the Nigerian government, is found to be defective because of its unrealistic and non-altruistic conditions. As Ojobo (2023) captures it, the provision for reward fails to account for the country's current cultural and normative postures.

Conclusion and recommendations

The study presents the Nigerian case as an example of how not to mobilize citizens' participation in national anti-corruption programmes. Arising from the study is that the age-long anti-corruption campaign in Nigeria has yielded less results because of the systemic nature of political corruption in the country, as well as the design lapses and implementation challenges that constrain the effectiveness of the relevant regulations. Political corruption, which is the main focus in the Nigerian case, generates a higher likelihood of compromise and collusion between officials of government and anti-corruption regulatory agents – thus making it difficult to leave the fight against corruption only in the hands of the latter. Having a national whistleblowing regulation in this context ought to have provided ample opportunity for public participation. The theoretical framework adopted in this study provides conditions under which whistleblowing can serve as an effective tool for citizens' participation. Among those conditions is that the system in place is properly designed to guarantee adequate protection for potential whistleblowers and that the reward system is designed to discourage self-interest reward-seeking whistleblowers. This is in addition to having the existing institutions for anti-corruption regulation detached from the interferences of the political class.

Both the past and present practices in Nigeria, as shown in this study, fail to meet these key conditions. In effect, the country's long years of attempts at implementing implicit and explicit whistleblowing regulations resulted in design and implementation lapses that prioritized monetary recovery above the need for public protection and, by so doing, discouraged citizens' participation in the entire anti-corruption campaign. The 2016 Whistleblowing Policy, which was the closest attempt by the Nigerian government to involve the citizens in the anti-corruption campaign, failed because of the same design and implementation lapses.

To induce sincere participation among the citizens, therefore, adequate safety and protection must be explicitly guaranteed for persons and groups that are willing to participate in the campaign. The anti-corruption regulatory regimes in Nigeria, past and present, are inundated with evidence of the government's lack of commitment, victimization, and retaliation against whistleblowers, as well as the inability of the government to put in place a functional and transparent

framework. In addition to the need for protection, the anti-corruption agencies and regulatory provisions need to be restructured and harmonized to enhance the accountability framework, secure trust among the citizens, and make the campaign more attractive for public participation. The reward system, for instance, can be redefined in non-monetary terms to make the act of whistleblowing less susceptible to abuses by self-serving individuals.

Notes

1. See Special Press Statement of former President Olusegun Obasanjo on President Buhari, titled: The Way Out: A Clarion Call for Coalition for Nigeria Movement, January 2018.
2. Common among the media sources used are Premium Times, ThisDay, Daily Trust, Daily Post, Guardian, Punch, and Vanguard [Nigeria] Newspapers, BBC Online, New York Times.
3. The explicit legal instruments on anti-corruption in Nigeria are The Code of Conduct Bureau and Tribunal Act (1988), Schedule 5 of the 1999 Constitution, The Economic and Financial Crimes Commission Act (2002), The Corrupt Practices and Other Related Offences Act (2004), the Nigerian Criminal Code, the Money Laundering Act (2004), Administration of Criminal Justice Act (2015), Public Procurement Act (2007), the National Human Rights Commission (Amendment) Act (2010), the Freedom of Information Act (2011).
4. That is, Public Officers (Protection Against False Accusation) Decree 1976, popularly referred to as the 'Ohonbaniu Decree,' was enacted by the Mohammed-Obasanjo administration on March 11, 1976. For details of this, see Oloyede (2004).
5. Such proscriptions include: Concord Group of Newspapers Publications (Proscription and Prohibition from Circulation) Decree 14 of 1992; the Punch Newspapers (Proscription and Prohibition from Circulation) Decree 7 of 1994; the Guardian Newspapers and African Guardian Weekly Magazine (Proscription and Prohibition from Circulation) Decree 8 of 1992.
6. Namely: Federal Ministry of Finance, Budget, and National Planning; Federal Ministry of Justice; representatives from the Economic and Financial Crimes Commission, National Financial Intelligent Unit, and the Directorate of Secret Services).
7. See Chapter 5 Sections 80–82 of the Constitution of the Federal Republic of Nigeria, 1999.
8. WILKIE v. FGN & ORS (2017) LPELR-42137(CA).
9. The ruling followed an earlier judgment by the Supreme Court case of EBHOTA vs. P. I. & P. D. O. LTD (2005) 15 NWLR (PT.948) 266 AT 289 PARAS D-E. See also the case of FOMBO vs. COOKEY (2005) 15 NWLR (PT. 947) 182 AT 207." Per OHO, J.C.A. (Pp. 43-44, Paras. D-B).

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