

Capital Loss and Corruption: The Example of Nigeria

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by

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Good morning, Chairman Frank, distinguished US Representatives of the Committee, and thank you for this very kind invitation to offer testimony as part of this panel.

The global financial crisis has made nothing so clear as the fact that the global economy is now highly integrated and interconnected. What effects one corner of the globe will reach to all other corners, and the lack of proper regulation and oversight in one place can undermine stability far away.

Corruption has the same effect on global markets, although it is not often thought of in those terms. So just as it is the purpose of this hearing to explore lines of responsibility in the global financial crisis, so too should it be to better understand the global responsibility to end corrupt practices.

Understanding corruption as a transnational problem is the only way to fight it. Corruption in one place is connected to others, enabled by systems of weak regulation and poor oversight. When you think of "corruption," there will always be specific personalities and places that jump to mind, and inevitably Nigeria is

near the top of that list. But I think you will all agree with me that corruption is not a native of any land; it just finds easier homes in some. Societies that have been able to move ahead are those that put the statutes in place to criminalize corruption and ensure that the enforcement mechanisms are proper and ready for action.

Let it be clear from the onset that my intention is not to speak ill of my country or continent, but rather to state the facts as they are.

Next year, Nigeria will be half a century old. In 1960, the year I was born, my country attained Independence from Britain. The promise of independence was boundless and the famous Nigerian energy was all too evident. We were sure we would make it. Home to about 140 million of the West African region's 220 million inhabitants, Nigeria's demography alone elects it as a regional power.

Today, after one civil war, seven military regimes, and three botched attempts at building real democracy, there is one connecting factor in the failure of all attempts to govern Nigeria: corruption.

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Mr. Chairman, your chosen theme for today's hearing is right on target. Corruption and capital drain have been the major factors in the lack growth and development in the region. The corruption endemic to our region is not just about bribery, but about mismanagement, incompetence, abuse of office, and the inability to establish justice and the rule of law. As resources are stolen, confidence not just in democratic governance but in the idea of just leadership ebbs away. As the lines of authority with the government erode, so too do

traditional authority structures. In the worst cases, eventually all that is left to hold society together is the idea that someday it may be your day to get yours. This does little to build credible, accountable institutions of governance or put the right policies in place.

The African Union has reported that corruption drains the region of some \$140 billion a year, which is about 25% of the continent's official GDP. In Nigeria alone, we had a leader, General Sani Abacha, it was believed that he took for himself between \$5–6 billion and invested most of it in the western world.

With this history, the EFCC undertook the investigation and auditing of the assets of serving state governors and public officials suspected of stealing public funds. We were assisted by the London Metropolitan Police, including in two cases involving governors. Mr. Joshua Dariye, Governor of Plateau state, was found by the London Metropolitan Police to operate 25 bank accounts in London alone to juggle money and evade the law. Like many of the governors, he used front agents to penetrate western real estate markets where he purchased choice and expensive properties. The London Metropolitan Police determined Dariye had acquired £10 million in benefits through criminal conduct in London, while domestically we were able to restrain proceeds of his crimes worth \$34 million. The other was the case of Mr. D.S.P. Alamiyeseigha, governor of oil rich Bayelsa State. He had four properties in London valued at about £10 million, plus another property in Cape Town valued at \$1.2 million. £1 million cash was found in his bedroom at his apartment in London. £2 million was restrained at the Royal Bank of Scotland in London and over \$240 million in Nigeria. This is in addition to bank accounts traced to Cyprus, Denmark, USA and the Bahamas.

These are just two examples. In 80% of the grand corruption that takes place in Africa, the money is kept somewhere else, enabled by systems of poor regulation that allow abuse by those looking for ways to profit.

Between 1960 and 1999, Nigerian officials had stolen or wasted more than \$440 billion. That is six times the Marshall Plan, the total sum needed to rebuild a devastated Europe in the aftermath of the Second World War. When you look across a nation and a continent riddled with poverty and weak institutions, and you think of what this money could have done – only then can you truly understand the crime of corruption, and the almost inhuman indifference that is required by those who wield it for personal gain.

For the West to finally understand why those like myself and my colleagues here today, John Githongo and Monica Macovei, are willing to risk so much, risk our lives, to fight corruption in our home nations, the West must then be willing to see corruption as not just a system of bribes and patronage, but the systematic undermining of responsible governance, of visionary leadership, of a society's ability to meet and overcome challenges. The West must understand that corruption is part of the reason that African nations cannot fight diseases properly, cannot feed their populations, cannot educate their children and use their creativity and energy to open the doorway to the future they deserve. The crime is not just theft. It is negligence. Wanton negligence, the full impact of which is likely impossible to know.

I have said this before, and while I know it is a controversial statement, I stand by the idea that corruption is responsible for as many deaths as the combined results of conflicts and HIV/AIDS on the African continent.

I always see myself as a policeman first, and as a law enforcement officer at the frontlines, I have seen corruption provide fertile ground for injustice, for violence, for the failure of government and the failure to use revenues and donor support for the benefit of the people. I see how those who are confronted with these systems – diplomats, foreign businesses, NGOs and others with the best of intentions for the continent – make the choice to work within those corrupt practices to get the job done faster, or try to work ethically and morally while knowing this choice will cost them time, profit, and impact. I see people suffer, and while they may not know why or how exactly, they understand that it is unjust, they know right from wrong, and they know that as long as these systems are allowed to thrive, their lives will never be better. But so long as bowing to corruption is the primary way of succeeding in certain societies, it trains generation after generation to accept its yolk, get their due, and ignore those around them.

On a regional dimension, it is estimated that some \$20 billion leaves Africa annually through the illicit export of money extorted from development loan contracts. This money is deposited in overseas banks by a network of politicians, civil servants and businessmen. This figure is now roughly equal to the entire amount of aid from the US to Sub-Saharan Africa every year.

This outflow is not just abstract numbers: it translates to the concrete reality of kids who cannot be put in schools, who will never learn to read, because there are no classrooms; mothers who die in childbirth because the money for maternity care never made it to the hospitals; tens of thousands who die because there are no drugs or vaccines in hospitals; no roads to move produce from farms to

markets or enable a thriving economy; no jobs for young school graduates or even ordinary workers; and no security for anyone because the money has been stolen and shipped out.

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The picture I paint here is that of my country. The picture of a potentially great land, slowly poisoned by the idea that the importunity of lawlessness is success. The picture of a land held hostage for decades by a kleptocratic bunch of fraudsters who built a career in politics to protect their lines of revenue. I am saddened when I hear America's new president, his First Lady, and his cabinet officials all speaking at graduation ceremonies and calling for service to your country and your community, because I know that in Nigeria that this is not happening at the moment.

While there is much blame to be directed at Nigeria for this state, we should not stand accused for these crimes alone. The unholy alliance between local political elites and western financial institutions has been the foundation of this narrative of shame. The best illustration yet is the now famous Halliburton/KBR scandal where, as a Nigerian Newspaper recently reported, our leaders received "stacks of US dollar bills in briefcases and sometimes in bullion vans" until some \$185 million had been exchanged for a contract to build a liquefied natural gas plant.

The other famous case is the Siemens scandal. According to the US Securities and Exchange Commission [SEC], Siemens made approximately \$12.7 million in "suspicious payments" for Nigerian projects, including to government customers for four telecommunications projects. The total value of the four contracts was

approximately \$130 million. There are many other instances. The total amount in bribes is staggering.

In both of these cases, the United States and Germany, the parent nations of these two companies, have initiated stern investigations and issued out hefty fines on the companies – but those who received the bribes in Nigeria continue to enjoy the fruits of their labors, which only means the cycle will continue. It is clear that KBR did their own calculus: \$185 million in bribes, plus eventually almost \$600 million in fines for violation of the Foreign Corrupt Practices Act, but they won \$6 billion in business for their efforts. These projects continue on. And this kind of math will continue on for as long as companies realize there are those on the ground willing and eager for this type of facilitation. In Nigeria, the alleged culprits are going about their daily lives and even running the government by default. And yet they are still engaged from outside as equal partners in governance and development.

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I have always held the belief that the laws needed to check these problems often already exist; what is lacking is the culture of enforcement. Enforcement blossoms only where there is the necessary political will, and this political will must be strong at the very top. There is no place in the world where anti-corruption efforts will succeed without this political will, without leadership to promote the effort openly as a moral and political force. Without this will, the pressure on enforcement agents smothers their efforts and is destined to destroy the very agencies defined to lead the war against graft.

I learnt this myself by firsthand example. Having spent five years building Nigeria's EFCC into a world-class crime-fighting agency with trusted partnerships with US and UK agencies, all of it has now changed, like many of the other reform efforts in the country.

When the EFCC was formed in 2003, our country had never secured a single criminal conviction for corruption charges. We were fortunate to have the political support of President Obasanjo; of other several powerful ministers in the government including Nasir El-Rufai, from whose budget the original money to support the EFCC came; from key Senators; and from the judiciary whose responsibility it was to decide the cases presented to them.

By 2007 we had secured convictions in over 275 of the near 1000 cases in the courts. It was modest but revolutionary, especially since the convictions were from cases against high-ranking officials such as the leadership of the Nigeria Police, a number of state governors, ministers, legislators and top bureaucrats. The symbol of these convictions to ordinary Nigerians had more impact than I could have believed. But for the first time, they saw those living unlawfully and with impunity being called to task, and they allowed themselves to hope that a new Nigeria, where the fruits of their labors would finally be enough to prosper, may be coming.

And things changed, at least for a while. This was homage to the extraordinary will and belief of young Nigerians who saw corruption as the barrier to the progress of our country and wanted to contribute. The effort we made at the EFCC was a marriage of two forces: pressure from outside and the force from within. The international community deployed the instruments of the Financial

Action Task Force [FATF] to trigger necessary reforms, which provided us the platform to build a strong local program to clean up our financial institutions and prosecute those who sought to undermine them. This ultimately paved the way for a far-reaching banking reform in the country, famously described as the consolidation of about a hundred mushroom banks into 25 strong institutions. Some of these banks are now seen as credible financial institutions with continental reach; indeed, some of them are stepping in to fill the gaps left by decreased activity of Western banks during the financial crisis.

The EFCC also helped to address the problems in the Niger Delta, which, in my opinion, is driven entirely by corruption. Indeed, one of the governors of the Delta that we investigated offered me \$15 million in cash to stop the investigation against him. We charged him both for the theft of state revenues and for the bribery attempt. Sadly today he is still one of the most powerful political figures in both the ruling party and the country. This clearly highlights the problem of the Delta – money meant to have gone for development has gone to very few hands and is used for negative ends. In 2003-4, almost 100,000 barrels of oil was stolen daily; by 2005-6, we had managed to reduce this to 10,000 barrels per day. We also secured convictions for kidnappers in the Delta, who were driving the cycle of violence and bribery with the private oil companies.

The entire team responsible for these successes, which was trained by a variety of agencies in the US, has been moved out of the EFCC. I personally have been dismissed from the service, though I continue to challenge this dismissal in court. After surviving an assassination attempt, I decided to relocate temporarily out of Nigeria. But much work remains to be done.

But the policy today in Nigeria is to use all the right rhetoric – speaking of the need for rule of law and the fight against corruption – to cover-up their real campaign to completely undo the reform efforts of the previous government and so thoroughly confuse corruption and anti-corruption that no one can sort out which is which any longer. This is why today, many of the law enforcement agencies that used to work hand-in-hand with the EFCC are no longer willing to partner with the EFCC or the Nigerian Justice Department. The issue of integrity is paramount in such relationships.

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I offer these examples to illustrate the challenge in fighting corruption. When you fight corruption, it fights back. It will likely have greater resources than you, and it is lead by those who operate outside the law and view the fight as life-and-death for their survival. In a globalized and networked world, we all need to believe that the fight against corruption must assume a transborder dimension. Our own modest success at the EFCC was supported by efforts of institutions of the United Nations, regional bodies, and many bilateral bodies like the US Secret Service, the FBI, the US Postal Service, and the Department of Justice. I would particularly mention the support we got from the United States in setting up and nurturing the Nigeria Financial Intelligence Unit. We were also aided by the emergence of statutes that offered universal applicability. But without a doubt, the fight against corruption in countries like Nigeria will require strengthening international regulations and standards to enable enforcement on the ground.

For example, the work of the EFCC would not have been possible without the Financial Action Task Force, which de facto forced Nigeria to develop new anti-

money laundering laws and spurred the creation of the EFCC. However, the FATF lost its original might and importance and there is a need to strengthen it, empower it, and provide the necessary framework for international financial regulations. Stronger global standards against money laundering can force Nigeria and other countries to accept that the old way of business will come with too high a cost.

Similarly, the US could help promote a Proceeds of Crime law that has treaty status, and push the boundaries of the Foreign Corrupt Practices Act (FCPA) to be expanded power to bite both givers and takers of bribes. Until those receiving the bribes are punished for their actions, the marketplace for high-stakes elite bribery will continue to thrive. I would also propose that Congress support civil society monitoring programmes and direct support for programmes building investigative journalism, which can support transparency and anti-corruption efforts.

Other challenges will include expanding cooperation in intelligence gathering and sharing and reigning in the vicarious liability of tax havens and offshore banks. This comes back to the theme of today's hearing, about the role of financial institutions. Safe havens are undermining the effort of poor nations to make progress and we must all work in concert to ensure that secrecy does not undermine greater transparency and accountability. The UK's Commission for Africa estimates that the assets stolen from the continent and held in foreign bank accounts amount to \$93 billion. If Africa can succeed in tracing and repatriating such stolen wealth, the next chapter in the story may truly turn a new page, and the days of aid dependency can start to wane.

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From a distance, systemic corruption seems like too big a hurdle to overcome. Nigeria's problems may seem insurmountable, but the rest of the world can make a difference by doing what they can to promote transparency. In five short years, the EFCC was able to make a difference in one of the most challenging environments on the planet; the lesson is that small measures with limited support can bring about meaningful change.

But to do this, Western partners and others must truly understand how corruption works and that in some instances they have been unwilling partners to it, even when the intentions have been nothing but good. Corruption is often viewed as a political challenge, and many donor nations would rather support more humanitarian-based causes, like health and education. But it is time for everyone to understand that by pumping money into development efforts without a clear accountability mechanism as a part of such programs, these efforts are often as good as putting money down the drain. The US has many new health and development initiatives in Africa – in Nigeria alone the total is over a half billion dollars a year. You owe it to yourselves and to your taxpayers to ask how this money is spent, ask for results, and insist that any such funds are spent to the good of the people. I believe if you looked more closely at some of the organizations in Africa tasked with utilizing these funds, you would not like what you see. The same is true of any nation offering development aid on the continent; the need for greater oversight standards are needed by all partners.

The examples I give today are not to point fingers, but to illustrate that corruption is killing Nigeria, and it is killing across the African continent. I urge you to view the fight against corruption as the ultimate humanitarian effort, for surely there is

no stronger chain to shackle the poor to their lot. Corruption may have taken some shots at us, but what it is doing to ordinary Nigerians every day is far worse and far more fatal.

When corruption is king, there is no accountability of leadership and no trust in authority. Society devolves to the basic units of family and self, to the baser instincts of getting what you can when you can, because you don't believe anything better will ever come along. And when the only horizon is tomorrow, how can you care about the kind of nation you are building for your children and your grandchildren? How can you call on your government to address what ails society and build stronger institutions?

Corruption makes democracy impossible because it subverts the will of the people. A select few, with so much money and authority, continue to steal elections and make a mockery of the notion of government by the people or for the people. Nigeria today is the worst example of electoral theft in the world. So it is also important that the United States and other partners in Nigeria stand by the Nigerian people first and foremost, and say that enough is enough.

Corruption is one of the greatest crimes the world has ever known. But those who are suffering the most from its poison are the least able to fight it; their resources, their health and wellbeing, and their futures have been stolen away. There is no surer salt in the earth of democratic and representative governance. It is for this reason that I call on you to help fight this global injustice, both for the sake of Nigeria, and for every other country that will never know its potential without your support. But at the end of the day it will be we, the Nigerians and

the Africans, that will have to solve our own problems and catch up to the rest of the world in freedom and development. I assure you that can be done.

Thank you once again for this kind invitation and I now welcome your questions.