

FRAGMENTING ANTI-CORRUPTION AGENCIES: AN ASSESSMENT OF THE EMERGENCE OF STATE-BASED ANTI-CORRUPTION AGENCIES IN NIGERIA*

Abstract

Following international legal provisions, anti-corruption agencies (ACAs) have been touted as one of the strategic measures of combating corruption. For many years, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) have been the principal ACAs with centralised operations in Nigeria. Recent development shows the decentralisation of anti-corruption measures by State government through the creation of state ACAs. In 2008, Kano State established the State Public Complaints and Anti-Corruption Commission and recently, Oyo and Lagos State governments, also established their own anti-corruption agencies. Clearly, it is settled law that States have the constitutional duty to combat corruption as much as the federal government. However, the move towards proliferation of ACAs may have significant implications on anti-corruption efforts. This paper is a desktop study which examines the fragmentation of anti-corruption agencies in Nigeria by the States and the legal implications from operational and pragmatic perspectives. Although, States have constitutionally entrenched legislative autonomy over corruption matters, it is not exclusive of the federal government's legislative powers. Consequently, there must be co-ordinated and concerted efforts against corruption at all levels. It is arguable that the principal ACAs operate through their zones in order to adequately cover the federation hence, the need for State-based anti-corruption institutions may be questioned. However, the pervasiveness of corruption in Nigeria demands such magnitude of concerted effort to combat it. This paper concludes that while State ACAs are constitutional and probably needful, there must be clear provisions on the co-ordination of their functions and powers in relations to existing principal ACAs so that they act in a complementary manner, else they become political tools replicated by State governments.

Keywords: EFCC, ICPC, Prosecution, Investigation, Prevention

1.0 Introduction

The United Nations Convention against Corruption 2003 (UNCAC) and the African Union Convention on Preventing and Combating Corruption (AUCPCC) recognise the importance of anti-corruption agencies or bodies in preventing and combating corruption.¹ Hence, they make provision for the establishment of bodies or agencies to co-ordinate anti-corruption measures and combat corruption through law enforcement.² Anti-corruption agencies are publicly created independent bodies responsible for co-ordinating anti-corruption strategy of any polity.³ The mandates of anti-corruption agencies are usually broad and multifaceted, but specific. Their functions may range from investigating and prosecuting corruption crimes to executing preventive anti-corruption strategies.⁴ The standard and core purpose of the anti-corruption bodies are set out in international legal provisions. They must be independent, specialised, staffed and sufficiently funded to perform their functions and duties.⁵ It is widely accepted that corruption in Nigeria is endemic hence, the anti-corruption efforts over the years.⁶ Anti-corruption efforts date as far back as the 1970s' but the effectiveness of the efforts remains a subject of debate. Successive military regimes in Nigeria purportedly implemented some form of anti-corruption strategies through agencies such as the Corrupt Practices Investigation Bureau of 1975, Public Complaint Commission and anti-corruption decrees and policies.⁷ In fact, some of the military take overs were

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¹ The report of the conference of the State parties of UNCAC (COSP) emphasized that importance of ACAs at the in 2019. Eight Session of the Conference of the State Parties to the UNCAC at Abu Dhabi 16-20 December 2019. COSP Report CAC/COSP/2019/17.

² Articles 6 and 36 of the UNCAC. Articles V and XX of the AUCPCC.

³ Warizi sees anti-corruption agencies as separate independent and permanent body which provide leadership in core areas. anti-corruption activity. Fatima Waziri, *Strengthening of Anticorruption Commissions and Laws in Nigeria* (Doctoral dissertation, University of Pittsburgh 2011), 112. The definition provided by De Sousa is also instructive. Luis de Sousa, 'Anticorruption Agencies: Between Empowerment and Irrelevance' *Journal of Crime Law and Social Change* (2010) (53) 5-22, 5.

⁴ Doig et al identify three core functions of anti-corruption agencies. Doig Alan, David Watt and Robert Williams, 'Why Do Developing Country Anticorruption Commissions Fail to Deal with Corruption? Understanding The Three Dilemmas of Organizational Development, Performance Expectation, and Donor and Government Cycles' *Public Administration and Development* (2007) (27) (3) 251 – 259.

⁵ Authors like De Sousa also highlight the basic features of these bodies. L de Sousa, 'Anticorruption Agencies: Between Empowerment and Irrelevance' (2010) (n. 3).

⁶ Over the decades, Nigeria has consistently ranked low on the CPI with a score ranging from 24-27.

⁷ Some of the military regimes adopted policies such as War Against Indiscipline Programme of the Buhari/Idiagbon regime, Mass Mobilisation for Self-Reliance Social Justice and Economic Recovery of Babaginda regime, Abacha's War Against Indiscipline and Corruption and laws like the Corrupt Practices Decree No. 38 of 1975 etc. Agaptus Nwozor, John Shola Olanrewaju, Segun Oshewolo and Modupe Bosede Ake 'Is Nigeria Really Fighting to Win the Anti-Corruption War? Presidential Body Language, 'String-Puppeting' and Selective Prosecutions' *Journal of Financial Crimes* (2020) (27) (2) 601 – 617, 608. Inokoba, P. K. & Ibegu, W. T. (2011). Economic and financial crime commission (EFCC) and political corruption: Implication for the consolidation of democracy in Nigeria. *Anthropologist*, 13(4): 283–291.

borne on the whim of putting an end to corrupt practices within government.⁸ Ironically, the military dispensations were not immune from grander levels of corruption.⁹ Since transition to democratic dispensation in 1999, anti-corruption efforts do not seem to have waned, although the debate has often been centred around the effectiveness and authenticity of the efforts. Each administration since 1999 has adopted some form of anti-corruption strategy. In 2017, Nigeria developed a four-year anti-corruption strategy from 2017-2021 built on five core areas of prevention, public engagement, ethical re-orientation, enforcement and sanctions, recovery and management of proceeds of corruption.¹⁰ The anti-corruption agencies form part of the institutions with strategic roles in implementing the strategy.

The EFCC and the ICPC are the principal anti-corruption agencies in Nigeria. Clearly, the two agencies have distinct powers and duties which may be similar but are not the same. Although there have been arguments that the two agencies appear to be a duplication of similar efforts and calls for a merger of both agencies, they still operate separately.¹¹ While the EFCC popularly touts its achievements in conviction of alleged offenders or recovery of looted assets, until recently, the ICPC does not seem to record/publicise the same feats over the years.¹² With the lead from Kano State in 2008, a State based anti-corruption agency was created. Subsequently, Lagos and Oyo States have established their own anti-corruption agencies. The Constitution of the Federal Republic of Nigeria 1999 (As amended) makes provision for the duty of the 'State' to 'abolish all corrupt practices and abuse of power.'¹³ Following the decision in *Attorney General of the Ondo State v Attorney General of the Federation and 35 Ors*, States can validly legislate on anti-corruption matters as much as the federal government can, given precedence to the provisions of Sec.4 (5) of the Constitution.¹⁴ Given this position, does the move by State to establish ACAs reveal likely flaws of the anti-corruption framework of Nigeria or does it rather explore its potentials? What roles are these new State ACAs going to play differently from the existing ACAs? What would be the relationship between the existing principal ACAs and these newly created State ACAs?

This paper examines the fragmentation of ACAs in Nigeria. The first section gives a brief background and narrative to the establishment of specialised anti-corruption agencies in Nigeria. The second section discusses some of the anti-corruption agencies in Nigeria with focus on the two principal anti-corruption agencies. The third section x-rays the creation of state anti-corruption agencies from the Kano State Public Complaints and Anti-Corruption Commission (KPCACC) to the recently established anti-corruption agencies in Lagos and Oyo States and examines the provisions of their establishment statutes. The fourth section evaluates the necessity and use of proliferation of anti-corruption agencies and the provisions establishing the State ACAs in the light of existing principal ACAs. The fifth and final section draws conclusion from the discussions in the previous sections and provides corresponding recommendations.

2. Anti-Corruption Agencies in Nigeria

In line with Nigeria's obligations under international laws, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) are the two principal and specialised anti-corruption agencies responsible for investigating and prosecuting corruption crimes in Nigeria.¹⁵ The ICPC was established earlier in time while the EFCC was later established in 2003. Besides these two specialised agencies on anti-corruption, there are other government agencies/institutions which are not core anti-corruption agencies but have anti-corruption mandates. The Code of Conduct Bureau is constitutionally established to co-ordinate the actions of public officers in compliance with the Code of Conduct for public officers and to ensure compliance with the highest standard of public morality and accountability.¹⁶ The Code of Conduct Bureau and Tribunal Act further provides that the Code of Conduct Tribunal has power to impose punishment on public officers found guilty of contravention of any

⁸ Agaptus Nwozor, John Shola Olanrewaju, Segun Oshewolo and Modupe Bosede Ake, *ibid*, 604. Stephen Ocheni and Basil C. Nwankwo 'The Effectiveness of Anti-Corruption Agencies in Enhancing Good Governance and Sustainable Developmental Growth in Africa: The Nigeria Paradox Under Obasanjo Administration, 2003-2007' *Canadian Social Science* (2012) (8) (3) 16-21, 17.

⁹ Agaptus Nwozor, John Shola Olanrewaju, Segun Oshewolo and Modupe Bosede Ake, *ibid*, 605.

¹⁰ The national Anti-Corruption Strategy is the first comprehensive national strategy against corruption following failed previous attempt in 2011.

¹¹ Nnamdi Ikpeze, 'Fusion of Anti-Corruption Agencies in Nigeria: A Critical Appraisal' *Journal of Sustainable Development Law and Policy (The)* 2013 (1) (1) 148-167. The Orosanye Committee Report 2014 had recommended a merger of the two agencies in order to reduce cost and eliminate duplication of functions.

¹² In the first three years of its operation, the ICPC could not secure any conviction as against the EFCC which recorded hundreds of conviction in its first four years. Ikpeze reports that the ICPC has not had a very impressive performance owing to its statutory limitation and lack of cooperation from public servants. Ikpeze *ibid*, 158.

¹³ Sec. 15 (5) of the Constitution of the Federal Republic of Nigeria 1999 (As Amended).

¹⁴ (2002) NWLR (Pt. 772) 222 @385. It is clear from the wording of Sec. 15 (5) that the word 'State' encapsulates both the federal and State government. Sec. 4 (5) makes express provisions on the precedence of federal laws over state laws on the same matters where there is inconsistency.

¹⁵ This is without prejudice to other statutorily recognised criminal justice agents responsible for prosecuting crimes generally.

¹⁶ Paragraph 3 Part I, Third Schedule and Paragraph 18, Part I, Fifth Schedule to the CFRN 1999 (As amended). Sec. 2 of the Code of Conduct Bureau and Tribunal Act, Cap C 15 LFN 2004.

of the provisions of the Code of Conduct or the Act.¹⁷ The Bureau of Public Procurement is saddled with the responsibility of ensuring that government's public procurement policies, practices and process comply with the standard of probity, accountability and transparency.¹⁸ The Public Complaints Commission is a constitutionally established body with anti-corruption duties in receiving and investigating complaints on administrative injustice or abuse of power.¹⁹ In addition to the specialised ACAs and other government agencies with anti-corruption mandate, in 2020, a bill to establish another agency named Proceeds of Crime Recovery and Management Agency was presented to the national Assembly by the executive. The Agency is aimed at co-ordinating the management of assets recovered by ACAs and other agencies as a result of corruption and other related crimes.²⁰

2.1. The Principal Anti-Corruption Agencies in Nigeria

The EFCC and ICPC are regarded as specialised anti-corruption agencies in Nigeria with anti-corruption mandates across the federation. The main roles and functions of the principal ACAs are based on statutory provisions in their establishment Acts.

Independent Corrupt Practices and Other Related Offences Commission

The ICPC was established by the Corrupt Practices and Other Related Offences Act (ICPC Act) 2000 with three core mandates which captures the broad functions of enforcement, prevention, public education and mobilisation as provided by international legal instruments.²¹ First, the ICPC is charged with enforcing the provisions of its establishment Act through investigation and prosecution of corruption crimes as provided by the ICPC Act.²² Second, the Commission has the preventive mandate and duty of eliminating corruption in public agencies by examining, reviewing and enforcing their procedures and systems which are prone to corruption.²³ Third, the Commission is saddled with the responsibility of promoting public education and enlightenment on anti-corruption measures.²⁴ For the purpose of fulfilling its mandate the Commission has several units and departments and staffed accordingly. The Commission co-ordinates the Anti-corruption and Transparency Units within each of the federal government parastatals and agencies.²⁵ The ICPC is funded by the federal government from the national budget allocation. Unlike the EFCC, there is no statutory provisions for external funding, hence it is limited to the allocation it gets from the budgetary funds. The ICPC works with clubs in educational institutions both at secondary and tertiary institutions²⁶ and collaborates with civil societies. By the wordings of the ICPC Act, it would appear that the mandate of the Commission is limited to corruption within the public sphere or acts of corruption involving public officers. However, the provisions of the ICPC Act on the offences and the interpretative section²⁷ on the persons over which the Commission may exercise its powers cover both private and public sectors. Hence, the proposition that this is one of the distinguishing features of the mandates of the ICPC and the EFCC may be unfounded. The provisions of the ICPC Act suggest *prima facie* guarantee of independence of the Commission, although things have played out differently in reality. The Commission is not subject to any form of control or direction from any person or authority in the discharge of its functions.²⁸ With respect to the composition of the Commission, the chairman and twelve members of the Commission are not subject to any authority in the discharge of their duties except as otherwise provided by the Act.²⁹ The chairman is appointed by the President upon confirmation by the Senate for a period of five years while members are appointed for a period of four years. They can only be removed by the President

¹⁷ Sec. 20.

¹⁸ Sec. 5 of the Public Procurement Act 2007.

¹⁹ Sec. 5 of the Public Complaints Commission Act Cap C 37 LFN 2004. Other agencies such as the Budget Monitoring and Price Intelligence Unit, the Nigerian Extractive Industries Transparency Initiatives, the Office of the Accountant General of the Federation and the Technical Unit on Governance and Anti-Corruption Reforms also have significant anti-corruption roles.

²⁰ In the wake of the introduction of the bill, there were mixed reactions about the necessity of the agency. Alfred Olufemi, 'Strengthen ICPC, EFCC Instead – Nigerians React to Establishment of New Anti-Corruption Agency' *Premium Times* (17 September 2020). <<https://www.premiumtimesng.com/news/more-news/415190-strengthen-icpc-efcc-instead-nigerians-react-to-establishment-of-new-anti-corruption-agency.html>> Accessed 2 April, 2022.

²¹ ICPC Act. Omoregie Charles Osifo, 'An Ethical Governance Perspective on Anti-Corruption Policies and Procedures: Agencies and Trust in Cameroon, Ghana, and Nigeria Evaluation' *International Journal of Public Administration* (2014) (35) (4) 308-327.

²² Secs. 6 (a) 27 and 61 of the ICPC Act.

²³ Sec. 6 (b) *Ibid.*

²⁴ Secs. 6 (e) and (f) *Ibid.*

²⁵ The Anti-corruption and Transparency Unit (ACTU) was created in 2001 in all government ministries as an extension of the ICPC in line with the provision of sec. 6 of the ICPC Act, to help in monitoring, reporting and preventing corruptions in the respective agencies.

²⁶ ICPC reports that 300 anti-corruption clubs were inaugurated in schools across the federation at the outset of the Commission's work in 2003. UNODC: Nigeria, 'Thematic Compilation of Relevant Information Submitted by Nigeria in Relation to Article 6 of UNCAC' 8 April, 2013. 3. <https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/Nigeria.pdf> Accessed 12 April, 2022.

²⁷ Sec. 2 and Secs. 8-26 of the ICPC Act.

²⁸ Sec. 3 (14), *ibid.*

²⁹ Section 3 (10) and (14) of the ICPC Act.

with support of two-thirds majority of the Senate.³⁰ The Commission can act on petition or report of allegation of corruption from the Public. Upon receipt of any complaint or petition, the Commission may proceed to investigate such matters. Although there is nothing in the Establishment Act which suggests that the Commission may act *proprio motu*, the Court has established that the ICPC may investigate and prosecute without receiving any petition. While the provisions for composition and structure of the ICPC seem fair enough for it to act independently,³¹ the capacity of the Commission to adequately capture the interest of all the States of the federation with respect to its anti-corruption mandate is crucial to its success. First the composition of the Commission provides for two representatives as members of the Commission to represent the interests of the six geo political zones in Nigeria.³² These two members supposedly represent the interest of all the States of the federation. Second, in order to fulfil its mandate under the Establishment Act, the ICPC has established zonal offices in eighteen out of the thirty-six states of the federation. In spite of its alleged relative ineffectiveness, the ICPC has records of its activities since its establishment. Since its inception till mid-2021, the Commission has reportedly received about 20, 000 petitions and successfully investigated over 5000 of those petitions and prosecuted 1000 cases with 20% convictions.³³ The Commission has equally recorded recovery of assets worth over 125 billion Naira. In pursuance of its duties in Sec. 6 of the ICPC Act, the Commission conducts system study and review on government ministries, departments and agencies which have helped stalled many corrupt tendencies and helped in fulfilling its preventive mandate.

Economic and Financial Crimes Commission

The EFCC was established by the Economic and Financial Crimes Commission Establishment Act 2004 (EFCC Act).³⁴ In the same manners as the ICPC, the mandate of the EFCC incorporates the three core mandate on enforcement, prevention and education/enlightenment in its functions. The EFCC has the broad mandate of prosecuting and investigating economic and financial crimes.³⁵ In fulfilling the mandate, it is charged with the responsibility of enforcing the provisions of the Act and other specified laws in respect of financial and economic crimes in Nigeria.³⁶ It also has the responsibility of co-ordinating all the economic and financial crimes investigating units in Nigeria.³⁷ Its mandates are essentially different from those of the ICPC.³⁸ First, the EFCC was established when it became necessary for Nigeria to have a separate and independent financial intelligence unit following the establishment of ICPC and the blacklisting of the country on the non-cooperative territories and countries by the Financial Action Task Force in 2001.³⁹ The EFCC served the purpose of a financial intelligence unit until 2018 when Nigeria established one.⁴⁰ The focus of the ICPC is purely corruption and related crimes within the public agencies and among individuals. Whereas, the EFCC has a wider mandate that incorporates financial crimes and allied offences, with specific focus on individuals and corporate bodies. The ICPC may not concern itself with economic crimes such as money laundering and terrorism financing especially when do not connect with public corruption.⁴¹ The scope of offences over which the agencies can exercise their powers are essentially different, even with the omnibus provision which grants them powers to prosecute offences in other criminal statutes.⁴² Thus, while the two agencies share similar powers to investigate, prosecute, recover proceeds of

³⁰ Sec. 3 (8) *Ibid*.

³¹The composition of the ICPC has been criticised as the criteria for composition is open and subjective unlike the provisions with respect to the composition of the EFCC. Lukman Adebisi Abdulrauf. 'Using Specialised Anti-Corruption Agencies to Combat Pervasive Corruption in Nigeria: A Critical Review of the ICPC and EFCC' *African Journal of Legal Studies* (2020) (12) 215-241, 223.

³² Sec. 3 (3), *Ibid*.

³³Femi Gold, 'Steadily Winning the War Against Corruption' *ICPC* (21 September, 2021)

<<https://icpc.gov.ng/2021/09/06/icpc-steadily-winning-the-war-against-corruption-written-by-femi-gold/>> Accessed 30 March, 2022.

³⁴ The earlier 2002 Act was repealed by the 2004 Act.

³⁵ Sec. 6 of the EFCC Act, 2004.

³⁶ Secs. 6 (a) and 7 (2), *ibid*.

³⁷ Sec. 6 (n) *ibid*.

³⁸ Given the wide mandate and powers of the EFCC, there are few areas of overlap of powers of the two principal agencies which grants the EFCC same powers as the ICPC and *vice versa*.

³⁹ ACE Working Paper 038 The EFCC and ICPC in Nigeria: Overlapping Mandates and Duplication of efforts in the fight Against Corruption November, 2021. Centre for Democracy and Development Twenty Years of Anti-Corruption Efforts in Nigeria: A critical Look August 2021, 4.

⁴⁰ Sec. 1 (2) (c) of the EFCC Act. The Nigerian Financial Intelligence Unit (Establishment) Act 2018, established an autonomous agency known as the Nigerian Financial Intelligence Unit independent of the of EFCC.

⁴¹ The difference in the mandates of the two agencies, in this respect, is more defined where there is a fine distinction between economic and financial crimes on one hand and corruption crimes on the other hand. While the EFCC is concerned with the former, the ICPC has mandate over the latter. Sec. 45 of the EFCC Act provides a strict interpretation of 'economic and financial crimes' which further helps to clarify the Commission's mandate differently from that of the ICPC.

⁴² Sec. 6 (a) of the ICPC Act and Secs. 6 (b) and 7 (2) (f) of the EFCC Act. Sec. 7 of the EFCC Act makes it clearer that the main concern of the agency is economic and financial crimes which are not limited to those enumerated in the Act but also includes economic and financial crimes in other statutes.

crime, prevent and educate, the mandates are delineable and clashes are avoidable.⁴³ The absurdity of the claim that both agencies are a duplication of efforts is as apparent as the claim that since the Nigerian Police Force has investigatory powers over fraud for instance, it is duplicative to have other government agencies exercise similar powers within their sphere. Both ACAs may have similar powers but their mandates are distinct and not shared within the same sphere.

The EFCC is funded based on allocation from the national budget annually. The Commission maintains a fund from which all its expenses are defrayed.⁴⁴ The EFCC may also get external funding through gifts in so far as they do not contradict its objectives and functions. Flowing from the provisions of the EFCC Act especially those relating to composition, operations, funding and functions, the attempt to guarantee the independence of the Commission is obvious but not flawless. For instance, with respect to appointment, the Chairman and Board of the EFCC are appointed by the President subject to ratification by the Senate.⁴⁵ However, they may be removed by the President but without recourse to the Senate on the grounds of 'inability to discharge the functions of office' or for misconduct. The President may also remove them where he is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office.⁴⁶ Overall, it is clear that absolute independence is neither possible nor practicable for ACAs, hence the ICPC and EFCC report to the executive and the National Assembly but do not owe any allegiance to them that may contradict their mandate. In addition, the powers of the ACAs are subject to the constitutional powers of the Attorney-General of the Federation. In reality however, the independence of the principal ACAs has been constantly jeopardised in many ways. The ICPC and EFCC are specialised agencies created by statutes with clear and specific mandates against corruption in Nigeria. This sets them apart from other law enforcement agencies which may equally have the powers to investigate and prosecute crimes generally.⁴⁷ Since their inception, they have been the key drivers of the anti-corruption agenda of successive government. Largely, it would seem that the ICPC has been more proactive in their mandate on prevention through public awareness and education while the EFCC has been more active on enforcement through prosecution. Over the last two decades both ACAs have reportedly recovered about ₦ 900 billion⁴⁸ looted assets.⁴⁹ The EFCC has recorded over 3000 convictions in the last decade and recovered ₦ 8.5 billion in 2020 alone.⁵⁰ While not excusing the ICPC's seeming inertia, it is clear that the EFCC has a broader mandate and wider powers which perhaps serve as the foremost reason for its relative prominence and activities. On the other hand, it is equally arguable that the nature of ICPC's mandate and the class of offences it has powers to prosecute should attract more prosecutions than the ICPC currently boast of, given the prevalence of corruption in Nigeria. Cumulatively, increasing reports of corrupt practices and allegations of corruption show that the principal anti-corruption agencies has not been able to effectively combat corruption from both preventive and reactive perspectives. In spite of the record of the agencies on the three core mandates of an ACA, especially those of the EFCC, many authors seem to agree that these specialised agencies have not measured up to expectations.⁵¹ The anti-corruption agencies themselves have been alleged of corruption and on a number of occasions, the ACAs have had their chairman probed and removed on grounds of corruption charges.⁵²

Much of the challenges associated with the principal ACAs have been the same over the years ranging from lack of independence from political interference and inadequate funding to lack of political support and strategic collaboration.⁵³ However, it is difficult to assert that the decision by the States to create their own ACAs is based on the identified challenges. It is doubtful whether these identified challenges were the reasons that informed the decision of

⁴³ In recent years, the ICPC has stated that it would withdraw from any case the EFCC was involved. Olufemi Atoyebi, 'ICPC moves to avoid clash with EFCC' *Punch Newspaper* (13 April 2019) <<https://punchng.com/icpc-moves-to-avoid-clash-with-efcc/>>. Accessed 11 April, 2022

⁴⁴ Sec. 35-37 of the EFCC Act.

⁴⁵ Sec. 2 (3) of the EFCC Act.

⁴⁶ Sec. 3, *ibid*.

⁴⁷ Lukman Adebisi Abdulrauf. 2020 (n. 31), 216.

⁴⁸ About \$ 2.2 billion US Dollars.

⁴⁹ Kunle Sanni, 'Nigeria's Anti-Graft agencies Recover N900 Billion Looted Assets in 20 Years' *Premium Times* (6 December 2021) <<https://www.premiumtimesng.com/news/top-news/499315-nigerias-anti-graft-agencies-recover-n900-billion-looted-assets-in-20-years-cdd.html>> Accessed 12th March, 2022.

⁵⁰ NAN, 'EFCC Records 48 Convictions, N 8.5 Billion Recoveries' *The Guardian* (14 February, 2020). <<https://guardian.ng/news/efcc-records-48-convictions-n8-5bn-recoveries/>> Accessed 16 April, 2022.

⁵¹ Lukman Adebisi Abdulrauf. 2020. *op. cit.* (n. 31), 217. Ocheni and Nwankwo say the same thing on pages 17 and 18. Wale Adebani and Ebenezer Obadare, 'When Corruption Fights Back: Democracy and Elite Interest in Nigeria's Anti-Corruption War' *The Journal of Modern African Studies* (2011) (49) (2) 185-213.

⁵² Ikechukwu Nnochiri, Alleged Diversion of Recovered Loot: FG Okays Ibrahim Lamorde for Probe. *The Vanguard* (27 October, 2015) <<https://www.vanguardngr.com/2015/10/alleged-diversion-of-recovered-loot-fg-okays-lamorde-for-probe/>> Accessed 3 May, 2022. 'Panel Questions EFCC Chief as Magu's Probe, Detention Continue' *Punch Newspaper* (10 July, 2020) <<https://punchng.com/panel-questions-efcc-chiefs-as-magu-s-probe-detention-continue/>> Accessed 2 May, 2022.

⁵³ Lukman Adebisi Abdulrauf 2020. *op. cit.* (n. 21) 231. Alan Doig and Francesca Recanatini, 'Anti-Corruption Agencies' in World Bank Group *Global Report Enhancing Government Effectiveness and Transparency: The Fight Against Corruption* (World Bank Group 2020) 290-303, 291.

States to create their own anti-corruption agencies. Perhaps, it might be helpful to interrogate the exact rationale for the creation of state anti-corruption agencies, at least, gleanable from the face of the statutes establishing them.

2.2. State Anti-Corruption Agencies

Until 2008, anti-corruption agencies in Nigeria were centralised and operated at the federal level. They have a nationwide mandate which cut across all the States of the federation. The Kano State government made the first move towards a State-created ACA by expanding the powers of its Public Complaints Commission to hear complaints against public officer to include anti-corruption functions in 2008. Kano State thus, established the State Public Complaints and Anti-Corruption Commission (KPCACC).⁵³ Subsequently, the Oyo State government established the 'Oyo State Anti-Corruption Agency (OYACA) and Lagos State established the Public Complaints and Anti-Corruption Commission (LPCACC) respectively.

Kano State Public Complaints and Anti-Corruption Commission

The Kano State Public Complaints and Anti-Corruption Commission (KPCACC) was established by the Kano State Public Complaints and Anti-Corruption Law 2008 in place of the erstwhile Public Complaints Commission of the State. The Law expanded its functions to include powers over corruption matters in Kano State, in addition to receiving public complaints from the Public hence, conferring the Commission with dual roles.⁵⁴ The anti-corruption provisions of the Law are similar to the provisions of the ICPC Act with the Commission vested similar powers as the ICPC's to investigative and prosecute corruption crimes in Kano State subject to the constitutional powers of the Attorney General of the State (AGS). The KPCACC Law expressly provides for the independence of the Commission from political influence of the government.⁵⁵ For operational purposes, the Commission has offices in all the local government of the State in addition to the head office.⁵⁶ The Law also makes a general provision for collaboration with the principal ACA. Except for collaboration on Staff training, not so much has been seen of the collaboration provision. In 2020, the Kano State government adopted a State Anti-Corruption Strategy which outlined a five-year plan to combat corruption in Kano State and established Kano State Anti-Corruption Institute. The strategy included prevention, enforcement and education as its core aims.⁵⁷ The Anti-Corruption Institute has the mandate of training the staff of the Commission and educating public servants on anti-corruption.⁵⁸ First, it appears difficult to track the progress of the KPCACC as an ACA since it combines the dual functions of receiving and investigating public complaints and corruption matters. Public complaints may be civil in nature or related to any other matter which are not necessarily related to corruption, corruption matters are strictly criminal and confined to corruption cases. Unlike the principal ACAs which have dedicated websites that provide information on their activities, there seems to be none with respect to the KPCACC. Thus, it is difficult to access comprehensive information or statistics on the Commission's anti-corruption activities in Kano State. It did not appear that the Commission had much to do until 2016 when the Commission reportedly recovered over 1 billion Naira Cash between 2015 and 2016.⁵⁹ As at 2016, reports showed that the Commission had entertained over seven thousand petitions since the inception of the defunct commission in 2005. In 2021 alone, the Commission reportedly recovered 300 million Naira.⁶⁰ In spite of the reports, it is difficult to decipher how much of the seven thousand petitions as at 2016, pertained to corruption matters. There is no figure on the number of corruption cases that have been successfully investigated and resolved. It would seem that the State ACA may be bedevilled with the characteristic problem of many ACAs. The independence and transparency of KPCACC may have been questioned by the petitions alleging corruption against the governor of Kano State to the ICPC. The report of corruption allegation against the governor and his family on conversion and illegal acquisition of State property was not made to the KPCACC for obvious reasons.⁶¹ The fact that in the recent times, a few high profile cases have been publicised including the allegations of corruption crimes case against Lamido Sanusi in 2019 while others were surreptitiously abandoned foreshadows a familiar pattern with ACAs.

Oyo State Anti-Corruption Agency

The Oyo State Anti-Corruption Agency Law 2019 established the Oyo State Anti-Corruption Agency (OYACA). OYACA was fashioned as a State ACA with the primary aim of investigating allegations of corruption and educating

⁵⁴ The Law was amended in the 2010.

⁵⁵ Sec. 8 of the Kano State Public Complaints and Anti-Corruption Law.

⁵⁶ Jafaru Dahiru, Usman Bamanga Magaji Tijjani and Fatima Tijjani 'The Constitutional Obligations of States to Fight Corruption in Nigeria: Kano State As a Model' *UMYU Journal of Law* (2021) 1-18.

⁵⁷ Kano State Government, 'Ganduje Commissions State Anti-Corruption Institute' (11 December, 2020)

<<https://kanostate.gov.ng/2020/12/11/ganduje-commissions-state-anti-corruption-institute/>> Accessed 15 March, 2022.

⁵⁸ Before the establishment of the Institute, the ICPC Academy had been assisting in capacity training for the staff of the KPCACC.

⁵⁹ 'Kano State Anti-Graft Agency Recovers 1bn Cash in One Year' *The Cable* (18 December, 2016)

<<https://www.thecable.ng/kano-anti-graft-agency-recovers-1bn-cash-one-year>> Accessed 11 March, 2022.

⁶⁰ 'Kano Anti-Graft Commission Recovers N300 M' *Ripples Nigeria* (13 June, 2021) <<https://www.ripplesnigeria.com/kano-anti-graft-commission-recovers-n300m/>> Accessed 12 March, 2022.

⁶¹ 'Kano Indigenes Write Anti-Corruption Agency, ICPC Alleging Governor Ganduje Converted State Property for Family Use' *Sahara Reporters* (21 Nov, 2021) <https://saharareporters.com/2021/11/22/kano-indigenes-write-anti-corruption-agency-icpc-alleging-governor-ganduje-converted> Accessed 29 March, 2022.

the public on anti-corruption agenda within the State.⁶² By the wording of sec. 9 of the Law, it would seem that the agency has powers to investigate public corruption only however, it is clear from the provisions of sec. 15 that the Agency's power covers all forms of corruption allegations. Sec. 9 focuses on the investigative powers of the Agency with respect to administrative actions and procedure.⁶³ The Law provides for specific offences over which the agency may exercise its powers but it is clear that the investigative powers of the agency are not limited to the specific offences indicated.⁶⁴ Although OYACA has investigative powers and all other powers incidental thereto,⁶⁵ it does not have the direct power to prosecute corruption allegations after investigation.⁶⁶ In addition to its investigative powers the agency has the power to order, remedy or redress to victims or make recommendations to appropriate authority in such respect.⁶⁷ It is unclear the exact meaning and intent of this provision, more because, there is no similar provision in the establishment Acts of principal ACAs. Victims as referred to in the provision may relate to the specific offences indicated in the Law however remedy or redress is largely vague.⁶⁸ In exercising this power, the agency may make the order or defer to the AGS. Whereas the independence of the Agency is guaranteed by the provision of Sec. 8, its decision to prosecute is left to the AGS who may delegate such powers as he deems appropriate.⁶⁹ Thus, the eventual prosecution of any case investigated by the agency is at the discretion of the AGS, it is not clear whether OYACA may be deemed fit to prosecute by the AGS or other prosecuting authority external to the agency. The funding of the agency comes from government allocation and voluntary donations from persons or organisations.⁷⁰ The Law makes provisions for all the indices for independence of an ACA such as structure and composition,⁷¹ funding,⁷² exercise of power,⁷³ remuneration,⁷⁴ immunity of officers⁷⁵ etc. and it remains to be seen whether the agency will truly be able to operate independently as it ought to, given those provisions.⁷⁶ The Law provides for the Agency's partnership with the principal ACAs in tracking corruption cases and training its staff.⁷⁷ Besides this provision, it makes no further provision on the nature and extent of the collaboration OYACA may have with existing principal ACAs. Impliedly though, it may be right to infer that such collaboration will go as far as their functions provide. It is, however, difficult to infer that the collaboration may go as far as prosecution of cases by one on behalf the other, given the limit of OYACA's powers.

Lagos State Public Complaints and Anti-Corruption Commission

The Lagos State government's anti-corruption agency was established under the Lagos State Public Complaints and Anti-Corruption Commission Law, 2021. The Lagos State Public Complaints and Anti-Corruption Commission (LPCACC) is responsible for the administration of the LPCACC Law with respect to the investigation and prosecution of allegations of financial crimes, and corrupt practices in Lagos State, especially where the finances and/or assets of the Lagos State Government are affected. Specific functions of the Commission regarding enforcement, prevention and education are provided by the law.⁷⁸ The Commission has investigative powers similar to those vested on OYACA.⁷⁹ The LPCACC has wider powers to prosecute directly or refer any matter to the AGS.⁸⁰ It would seem that in spite of this provision, the Commission is subject to the directives made by the AGS in pursuance of the provisions of the Law.⁸¹ The Commission also has ancillary powers.⁸² The law specifically grants the Commission power to investigate offences relating to corruption and financial crimes, abuse of office, offences relating to administration of justice, obtaining by

⁶² Secs. 9 and 15 of the OYACA Law.

⁶³ Sec. 9 (4) of OYACA Law empowers it to investigate administrative procedure of any law court in the State.

⁶⁴ Secs. 22 -27, *Ibid*.

⁶⁵ Such incidental powers include the power of search and seizure.

⁶⁶ Secs. 18 (3) and 28, *Ibid*. Further provisions of the Law on the various units and departments of the agency, further reinforce the position that the agency has no power to prosecute any corruption allegations as there is provision on prosecution unit like there is for the principal ACAs.

⁶⁷ Sec. 15 (2) and (3).

⁶⁸ It is difficult to determine whether the drafters of the law used the terms; 'remedy/redress' loosely or in the legal sense of the terms. Generally, an award of remedy to victims are made by judicial or administrative bodies with quasi-judicial powers. The Law makes no provision for the type of remedy which the Agency may make or order.

⁶⁹ Sec. 28 of OYACA Law. The office of the AGS, until the recent amendment of the Constitution of the Federal Republic of Nigeria (CFRN), was merged with that of the Commissioner of Justice who is a political appointee.

⁷⁰ Sec. 19 of OYACA Law.

⁷¹ Sec. 4, *ibid*.

⁷² Sec. 19, *ibid*.

⁷³ Sec. 9, *ibid*.

⁷⁴ Sec. 7, *ibid*.

⁷⁵ Sec. 48, *ibid*.

⁷⁶ Sec. 8 of OYACA Law makes clear provision for its independence from the control or direction of any authority, without prejudice to other provisions of the law. This suggests that the agency's independence is not absolute.

⁷⁷ Secs. 15 (l) and (m) *Ibid*.

⁷⁸ Sec. 14 LPCACC Law.

⁷⁹ Sec. 13 *Ibid*.

⁸⁰ Sec. 27 (1) *Ibid*. The provision of Sec. 27 (4) however reveals that every matter must be referred to the AGS. Sec. 35 further reinforces the position that prosecutorial powers ultimately rests with the AGS.

⁸¹ Sec. 15 LPCACC Law.

⁸² Secs. 38-41; 44; 59. *ibid*.

false pretences, fraudulent dealing with property, etc. under the criminal law in Lagos State.⁸³ Unlike other State ACAs, the LPCACC is vested with exclusive powers under the law to investigate all corruption and financial crimes cases in the State. This includes existing cases being investigated by other agencies.⁸⁴ Impliedly, the provision purportedly confers powers on the Commission to take over corruption and financial crimes cases relating to Lagos State assets and finance which had hitherto, been handled by principal ACAs. On the other hand and in the same manner as OYACA, the agencies are precluded from investigating matters pending before the court.⁸⁵ While the independence clause is absent in the LPCACC Law, the provisions on funding,⁸⁶ structure, composition,⁸⁷ remuneration,⁸⁸ exercise of power and immunity⁸⁹ give off the presumption of independence similar to those of other ACAs.

3. Creating More Anti-Corruption Agencies in the Face of Existing Ones, Whither Way?

Constitutionally, the duty to combat corruption is not within the exclusive preserve of the federal government, as it is settled law that States have legislative powers, as much as the federal government, over corruption matters.⁹⁰ Thus, it is not in contention whether States have the powers to establish ACAs, much of the controversy surrounds the expedience of the establishing more ACAs. The emergence of State ACAs begs the question of necessity, utility and prospects. Beyond the arguments on replication of similar agencies being a waste of resources and personnel which could otherwise, be consolidated and reinforced for maximum productivity, there are other pertinent issues which may have been overlooked in the debates. The existing principal ACAs were established by the federal government with the aim of combating corruption across the federation. However, the composition of the principal ACAs and the lack of direct connection with some of the States in terms of geographical proximity and physical presence might be the major contentions of States. It is plausible that the States perceive that the principal ACAs do not adequately cater for the interest of the States against corruption within their own territory and this might have fuelled the decision of the States establish their own ACAs. With respect to composition, the argument might appear justifiable given the fact the ICPC, for instance, provides for two members only, as representation for all the six geo political zones. While it is impossible to have each of the States represented in the composition of the Commission, it is abysmally low to have just two members to represent the interest of the thirty-six States grouped into geo political zones. This is notwithstanding the fact that the interest of each State within a zone may differ significantly and be impossible to broadly subsume in that of a zone. The 'Governors' forum' created by the ICPC as a platform where Governors as guest lecturers share their experiences on how they instil transparency and probity in governance, and prevent corruption has not significantly cured the deficit in composition as perceived by States neither has the forum helped much in catering for the interest of the states in the anti-corruption mandate of the ACAs. With respect to geographical proximity and physical presence, it is notable that the principal ACAs have statutory provisions for establishment of zonal offices across the federation.⁹¹ Even though none of the principal ACAs has its offices in all the states of the federation, State ACAs are in States with operative branches of principal ACAs within their states. Thus, the argument on physical presence of principal ACAs in these States is invalid in the light of States' decisions to the create ACAs. Perhaps, it might be considered more plausible if States without branches of the principal ACAs had undertaken the idea of establishing an ACA. Notwithstanding the foregoing, assuming the principal ACAs had physical presence in all the States of the federation, would it make the establishment of State ACAs unjustifiable? Clearly, there are inherent ills of fragmentation of ACAs without proper coordination. However, given the pervasiveness of corruption in Nigeria and the interference with the operations of the principal ACAs in the last two decades of their existence, State ACAs may be a welcome development to promote the fight against corruption, provided there is effective co-ordination of the replicated ACAs especially in their operations and relationship with the principal ACAs.

The independence of ACAs is important to their existence and operations.⁹² Although the principal ACAs have a nationwide mandate and seek to investigate and prosecute corruption crimes across the country, they often encounter 'resistance' from States on the validity of their powers over cases involving their officials or government departments. In the past, some States have instituted court actions against the principal ACAs, seeking to restrain the principal ACAs from exercising their investigative powers over the State finance and assets. Usually, the States' argue that the principal ACAs cannot exercise their powers over matters which the State has legislative powers.⁹³ The Courts, relying on the decision in *AG of Ondo State v. AG of the Federation and Ors.*, have repeatedly affirmed the principal ACAs' powers

⁸³ Sec. 13 (2) *ibid.*

⁸⁴ Sec. 13 (3) *ibid.*

⁸⁵ Sec. 17 (1) *Ibid.*

⁸⁶ Secs. 24 -26 *Ibid.*

⁸⁷ Sec. 3 *Ibid.*

⁸⁸ Secs. 5 and 26 *Ibid.*

⁸⁹ Sec. 68 *Ibid.*

⁹⁰ *Attorney-General of Ondo State v Attorney-General of the Federation and 35 Ors.* (n.14).

⁹¹ For instance, the EFCC operates in zones in order to adequately cover the federation.

⁹² Article 6 (2) of the UNCAC emphasizes the importance of independence to ACAs to enable them perform their functions effectively and without undue influence.

⁹³ *AG of Sokoto State v EFCC and ICPC* unreported FHC/Sokoto case. ICPC, 'Again Court Says ICPC, EFCC can Investigate person, authority in Nigeria for Corruption' *ICPC* (27 June 2018) <<https://icpc.gov.ng/2018/06/27/again-court-says-icpc-efcc-can-investigate-person-authority-in-nigeria-for-corruption/>> Accessed 23 March, 2022.

to investigate allegations of corrupt practices made against any person or authority in Nigeria as such, they cannot be stopped from performing their duties.⁹⁴ This, perhaps, might be one of the reasons States are beginning to establish their own ACAs. It would seem that the desire of States to own the investigation and prosecution of corruption crimes within their own jurisdictions is impliedly reflected in the LPCACC Law.

Unlike the State ACAs which have their prosecutorial powers expressly subsumed under the powers of the AGS, the principal ACAs, supposedly, have prosecutorial powers which are not necessarily subject to the direction of the AGF.⁹⁵ The principal ACAs can independently prosecute without the direction of the AGF howbeit, subject to the constitutional powers of the AGF.⁹⁶ Irrespective of the clear provision of the law, Nigeria has witnessed many of the rifts between the office of the AGF and the principal ACAs.⁹⁷ Often, there is undue interference in the activities of the ACAs by the AGF.⁹⁸ Given such antecedent, the statutory provisions expressly subsuming the prosecutorial powers of State ACAs to the decision of the AGS might have been informed by the principal ACAs. It is however, doubtful whether the provision will enhance the performance of State ACAs or impinge on their independence and eventual performance. The State ACAs bear many similarities with the principal ACAs in structure, functions, powers and establishing statutory provisions although, with slight differences. Similarly, they also appear to share the same challenges. Both the principal and the State ACAs are body corporate with legal personality and statutorily vested with autonomy in structure and the performance of their functions.⁹⁹ Flowing from the establishment Acts/laws of the principal ACAs and the State ACAs, their functions may overlap since they have their main aim set against corruption and for which purpose, all the ACAs are vested with investigative powers. While OYACA Law seem to emphasize administrative/public corruption, the LPCACC places emphasis on corruption and financial crimes involving the State's assets and finances. Irrespective of the emphasis of each agency, their powers extend to all forms of corruption and extend to additional criminal acts in so far as their establishment Law permits. Thus, the State ACAs wield similar powers as the principal ACAs with respect to corruption and financial crimes within their States.

The establishment Acts of the principal ACAs make provision for the establishment of one branch, at least, in each State of the federation, although there are some states without branch offices yet.¹⁰⁰ Thus, statutorily, the principal ACAs have equal powers to investigate corruption cases, as provided by their establishment Act, even in the states with established ACAs. In Oyo State for instance, the principal ACAs and OYACA have powers within the confines of their establishment Act to investigate the same corruption case. While this may be an advantage and a complementary effort against corruption, it could also be a seething disaster for ACAs and the anti-corruption efforts in Nigeria. Legal issues relating to double jeopardy, jurisdiction, enforcement, etc. must be clearly defined with respect to the operations of principal and State ACAs. Hence, a defendant who may validly plead *autre fois acquit* or *autre fois convict*, owing to prosecution by a principal ACA, will not be indicted by a State ACA for the same offence.

⁹⁴ *AG of Akwa Ibom v ICPC* Unreported State High Court case. 'Akwa Ibom State Attorney General Fails to Stop ICPC's Investigation ICPC (March 17 2017) <<https://icpc.gov.ng/2017/03/17/akwa-ibom-state-attorney-general-fails-stop-icpc-investigation/>> Accessed 23 March, 2022.

⁹⁵ Sec. 26(2) of the ICPC Act.

⁹⁶ For instance, the powers of the AGF to enter a *nolle prosequi* under sec. 174 of the Constitution of the Federal republic of Nigeria 1999 (As amended). At several instances the AGF have exercised their powers to interfere and halt many trials. Malami had several interferences in ongoing cases by the principal ACAs. Evelyn Okakwu, 'AGF Malami Explains Role in Suspension of N 5.7 Billion Fraud Trial' *Premium Times* (4 December 2018) <<https://www.premiumtimesng.com/regional/nwest/298943-agf-malami-explains-role-in-suspension-of-n5-7-billion-fraud-trial.html>> Accessed 4 April, 2022.

⁹⁷ The office of the AGF and the principal ACAs have an appalling history of discordance and rift which dates as far back as the existence of the agencies. In the past, Aodoaaka, a former AGF had contested the prosecutorial powers of the EFCC and sought to take over cases with respect to some former governors who were facing allegations of corruption crimes by the EFCC. Often, the AGFs make reference to their powers by the provision of sec. 43 of the EFCC Act. Subsequently in 2011, Adoke also had made controversial regulatory provisions for the EFCC pursuant to sec. 43 of the EFCC Act. Dayo Benson, 'EFCC: What is Attorney General Up to?' *Vanguard Newspaper* (21 July, 2011) <<https://www.vanguardngr.com/2011/07/efcc-what-is-attorney-general-up-to/>> Accessed 15 April, 2022. More recently is the unceremonious take-over of cases from the ACAs. Ikechukwu Nochiri, 'Malami Orders EFCC to hand over Casefiles of Ex-Aviation Minister, Oduah' *Vanguard Newspaper* (22 November, 2021) <<https://www.vanguardngr.com/2021/11/malami-orders-efcc-to-handover-casefile-of-ex-aviation-minister-oduah/>> Accessed 15 April, 2022.

⁹⁸ Nicholas Ibekwe, 'How Malami compromised Transparent Disposal of Forfeited Vessels - Magu Ibrahim Hassan EFCC probes audio Tape Alleging Malam's Interference in Commissions Activities.' *Vanguard Newspaper* (27 December, 2021) <<https://www.vanguardngr.com/2021/12/efcc-probes-audio-tape-alleging-malamis-interference-in-commissions-activities/>> Accessed 15 April, 2022.

⁹⁹ Sec. 3 of the ICPC Act; Sec. 1 of the EFCC Act; Sec. 3 of OYACA and Sec. 2 of LPCACC. The autonomy vested on the ACAs are not absolute for obvious reasons. While ACAs must be independent in the performance of their duties, absolute independence is neither desirable nor practicable. The perfect balance and checks needed for ACAs to perform their duties without fear or favour must always be available.

¹⁰⁰ Sec. 7 of the ICPC Act. The ICPC has branches in about 18 states while the EFCC has 13 branches across the states in addition to the head office in Abuja.

The controversial provisions of sections 13 (3) and (5) of the LPCACC which confers the Commission with powers to take over the investigation of cases involving Lagos State assets and finances from any other agency, upon its commencement, sets a classic example of the detractions of fragmented and uncoordinated anti-corruption war.¹⁰¹ The Law further confers exclusive powers to LPCACC with respect to economic and financial crimes cases involving Lagos State assets and finances. Apart from the apparent clash the provision is likely to create with respect to the powers of principal ACAs, the provision raises doubt as to its constitutionality. It is instructive that the establishment laws of the State ACAs clearly provide that their powers are subject to the provisions of the CFRN and rightly so.¹⁰² The provisions of Sec. 4 of the Constitution of the Federal Republic of Nigeria 1999 (As amended) are clear on the co-ordination of legislative powers of the Federal and State governments. Thus, where legislative power is not exclusive to the National Assembly, the State has legislative authority. In such instance, the State shall exercise their powers in a coordinative and complementary manner rather than being competitive and attempting to usurp legislative powers. It is constitutionally established that Lagos State has the legislative autonomy to make laws with respect to its finances and assets but the controversial provision is not solely in relation to the State's assets and finances but bothers on corruption and financial crimes which is not within Lagos State's exclusive preserve. In this instance, it is difficult to see how Sec. 13 of the LPCACC will take effect successfully in the light of constitutional provisions and judicial authorities.¹⁰³ Hence, it is clear that provisions like sec. 13 of the LPCACC Law are potentially capable of weakening and frustrating anti-corruption efforts.¹⁰⁴ In the light of the emergence of State ACAs, it has become more imperative to clearly define the scope of operations of the principal ACAs and the emerging State ACAs in a manner that promotes concerted synergy and robust anti-corruption strategy.

The establishment of State ACAs presupposes that there must be a definition of the scope of operation of principal ACAs and the emerging state ACAs and the relationship between the ACAs vis-à-vis statutory and constitutional provisions. The laws establishing State ACAs, make a general provision for collaboration with between the State and principal anti-corruption agencies which suggests a *prima facie* possibility of synergy among the ACAs. It however remains to be known the extent and substance of the relationship and its impact in combating corruption in Nigeria at the State and federal levels. Despite the seeming provisions on collaboration of the State ACAs with the principal ACAs in carrying out their duties and personnel training, there seems to be no concrete provisions on the structure of such collaborations. While it may appear premature to conclude on the possibilities of collaborations with respect to OYACA and LPCACC, the same cannot be maintained with KPCACC. Sometimes in 2014, the EFCC announced its intention to partner and collaborate with the KPCACC in its fight against economic and financial crimes but not so much have been seen of such collaboration if there was any at all.¹⁰⁵ In the same manner, the ICPC has only been reported to provide training to the staff of KPCACC and that until the KPCACC established its own training institute. The possibility of a collaborative relationship is even more unlikely in the light of States' pre-existing relationship with the principal ACAs. However, if the provision of the establishments laws of State ACAs is anything to go by in foreshadowing future successes and achievements, there must be clear definition and co-ordination of the relationships between ACAs at different levels to promote independence, limit friction and promote harmonious anti-corruption effort. The emergence of State ACAs should not be an avenue for state to engage in power tussle with the federal government on anti-corruption campaign. Rather than fragmenting and replicating weak ACAs which are likely to suffer ill-fated destinies, emerging State ACAs must act in a co-ordinated and complementary manner so much as to strengthen the fight against corruption and eradicate corruption at all levels, to the barest minimum. Such coordinated effort will emerge from the provisions of the establishment laws of the ACAs and administrative effects given to the provisions. Given the dynamics of corruption in Nigeria and the challenges the principal ACAs are grappling with, the statutory provisions backing the State ACAs have no innovations to forestall similar plagues as those of the principal ACAs.

4. Conclusion and Recommendations

The two principal anti-corruption agencies are two distinct agencies with clearly delineated responsibilities. While the debate and call for fusion or merger of the agencies still lingers, it calls to question the imperative for the creation of State anti-corruption agencies. On one hand is the argument that proliferation of ACAs is for the good of the States especially in cases of financial crimes, monies stolen from the coffers of a State should be the business of the State hence, prosecution by a State agency validly created would be more beneficial and productive. The proliferation of

¹⁰¹ The provision appears rather strange. It is difficult to discern the intendments of the drafters and the purpose the provision is meant to serve. It appears contrasting to the broads aims of anti-corruption strategy and unlike the provision of similar laws like OYACA Law.

¹⁰² Sec. 15 of the Sec. 14 (1) of OYACA and LPCACC Laws respectively.

¹⁰³ Sec. 4 (5) of the Constitution of the Federal Republic of Nigeria 1999 (As Amended).

¹⁰⁴ At the passage of the bill into law there were contentions from civil societies that the law was strategically made to the ongoing EFCC investigation of corruption cases against three former Lagos State officials. 'Lagos State Anti-Corruption Law, a Trojan Horse' (1 May, 2021) <<https://orderpaper.ng/lagos-state-anti-corruption-law-is-a-trojan-horse/>> Accessed 1 April, 2022.

¹⁰⁵ Economic and Financial Crimes Commission 'Anti-Graft War: EFCC Set to Partner Kano State Anti-Corruption Agency' *EFCC* (22 May, 2014) <<https://www.efcc.gov.ng/news/892-anti-graft-war-efcc-set-to-partner-kano-anti-corruption-agency>>Accessed 13 March, 2022.

ACAs by States is also necessary in a country like Nigeria where corruption is endemic and given the challenges that the principal ACAs face. On the other hand, the emergence of State ACAs raises the same old question of the effectiveness of quantity over quality. Does Nigeria need more ACAs or a reinforcement of existing ones? Whereas, the debate on the need for two principal ACAs remains unsettled, States are beginning to replicate ACAs, fated to suffer the same ills as 'their principal predecessors'. The other divide questions the necessity of replicating ACAs at State levels when it is clear that fragments only shreds effort and distorts the whole. The rationale for State ACAs is even more questionable in the light of subpar performance and challenges of the principal ACAs. Barring either sides of the argument, the creation of State ACAs have valid constitutional backing. However, the emergence of State ACAs raises the pertinent operational issue of horizontal relationships with other State ACAs and vertical relationship with principal ACAs. There must be a clear definition of the scope of operation of both State and principal ACAs since they share similar powers within different spheres. Thus, where an alleged crime has to do with federation account for instance, then the principal ACA can validly prosecute otherwise, where it involves the State, the State agencies can validly exercise their powers. This would bar probable issues of clashes, double jeopardy and prevent the trial of the same person for the same offence by the two different ACAs. A clear definition will also reduce friction among the ACAs and maximise resources and personnel available to ACAs. Beyond the general and vague provision for collaboration among the ACAs, specific regulatory provisions on collaborations will engender greater productivity among the ACAs. Overall, the emergence of State ACAs is a welcome development yet, State ACAs may be fated for stillbirth and besieged by self-exacted impotence, should they thread the path charted by their current statutory provisions.