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Nigeria

An Archaeology of Political Corruption

A political science excavation locating the roots
of Nigeria's corruption problem in the Victorian era
of Great Britain



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Preface

There is plenty of literature on the subject of political corruption in third world and emerging countries; political corruption is generally seen as a phenomenon of the post-colonial era. Inspired by the rather accidental encounter with the works of George Robb 'White-Collar Crime in Modern England: Financial Fraud and Business Morality, 1845–1929' and Scott R. Pearson's 'The Economic Imperialism of the Royal Niger Company', the idea arose to see what happens when a joint-stock company leaves Victorian Great Britain and becomes a pioneer of British imperialism in West Africa. The Royal Niger Company is at the beginning of a presence of foreign companies in Africa that continues to this day. It soon becomes clear that political corruption also has a historical dimension that does not unfold only in the post-colonial era. The work is confronted with a special challenge, since the concept of political corruption largely eludes any theoretical foundation. In order to give roots to this historical search, the analogy of archaeology was chosen. The analysis is divided into four excavation sections, ranging from Victorian Britain to the beginning of the 21st century. The analysis highlights over 130 years of interplay between foreign companies, Nigeria, and its colonial precursors, focusing on the genesis of rule of law and economic power structures. Thus, the work spans a period from the railway mania in Great Britain of the 1840s, up to the land grabbing in Nigeria of the present time. The work represents a special case of international relations, as it deals with the interplay between foreign companies, the Nigerian state, and its colonial predecessors. This analysis is an extension and update of my dissertation from the year 2015.

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1 Introduction

This chapter describes a first approach to the topic of research focusing on the object of study, starting from a global phenomenon and the perception of corruption in public discussion. The objective of the study is derived after identifying the research gap. It then explains how the topic is deduced in terms of methods and structure. The final section provides a differentiated presentation of the thesis.

1.1 Introduction to the Research Topic

Corruption has dominated the global media for many years now. The primary focus is no longer placed on self-centred autocrats from the developing countries or Russian oligarchs. The media interest is now often focused on Western global companies such as Siemens, Alcatel or Halliburton.

Tainted money and bribery have given companies illegal competitive advantages. The apparent accumulation of corruption cases over the recent years suggests that it is a problem of the recent past or present. Below is an outline of certain corruption cases of the past years:

- In 2015, Malaysia's Prime Minister Razak was announced to have appropriated USD 700 million of government funding originally intended to promote direct investments.¹ As part of a state visit to Malaysia in the same year, US President Obama warned to be "...more accountable, more open, more transparent, to root out corruption."²
- In Brazil, the so-called 'Caso Odebrecht' (Odebrecht case), which involves Brazil's largest construction company, made it to the front pages. Odebrecht is said to have disbursed USD 785 million to public officials, particularly in Latin America.³ In the course of the corruption case, Brazil's ex-president Lula da Silva was sentenced to 12 years in prison. Lula da Silva was, among other things, accused to have accepted a luxury apartment as a kickback from Odebrecht.

1 **O'Grady, Siobhan (2015):** A number of corruption scandals exploded in 2015, 12/29/2015, URL: <http://foreignpolicy.com/2015/12/29/the-worst-corruption-scandals-of-2015/> The Worst Corruption Scandals of 2015, as of: 05/01/2018.

2 US President Obama quoted in: **O'Grady, Siobhan (2015).**

3 **Konrad-Adenauer-Stiftung e.V. (2016):** Epizentrum Brasilien, February 2016, URL: www.kas.de/lateinamerika, as of: 05/01/2018, p. 1.

- In 2016, 783 corruption suits were filed against the South African president Zuma. The allegations against Zuma range from the misuse of taxpayers' money for the construction of a private amphitheatre and a swimming pool, both decked out as 'security upgrades' through to the illegal collection of kickback payments from arms deals.⁴
- In Honduras, the former director of the Honduran Social Security Institute is accused of overpaying USD 200 million to bogus companies.

In 2011, The Fiscal Times published the following overview under the heading 'The Ten Largest Global Business Corruption Cases':

Date	Company	HQ Country	DoJ Settlement Amount (USD M)	Charge
12/15/2008	Siemens	Germany	1,600	Bribed Argentine government officials to win government contract
02/11/2009	KBR/ Halliburton	USA	579	Led four-company global consortium that bribed Nigerian officials to win construction contracts
02/05/2010	BAE Systems	USA	448	Paid USD 2 billion in bribes to Saudi Arabian ambassador Bandar bin Sultan in a multi-billion-dollar arms deal
07/07/2010	Snamprogetti	Netherlands	240	Bribed Nigerian officials to win construction contracts
06/28/2010	Technip S. A.	France	240	Bribed Nigerian officials to win construction contracts
04/06/2011	JGC Corp.	Japan	219	Bribed Nigerian officials to win construction contracts
04/01/2010	Daimler AG	Germany	195	Made illegal payments to foreign officials worth tens of millions of dollars in at least 22 countries

4 **Bremmer, Ian (2016):** These 5 Facts explain the state of global corruption, 03/17/2016, URL: <http://time.com/4262897/five-facts-global-corruption/>, as of: 05/01/2018.

03/10/2011	Alcatel-Lucent	France	137	Bribed officials to win telecommunications contracts in Costa Rica, Honduras, Taiwan, Malaysia and other countries
11/04/2010	Panalpina World Transport	Switzerland	76	Oil transport company and U.S. affiliate paid thousands of bribes totalling at least USD 27 million to foreign officials in at least seven countries, including Angola, Azerbaijan, Brazil, Kazakhstan, Nigeria, Russia and Turkmenistan
04/08/2011	Johnson & Johnson	USA	70	Bribed government-paid doctors and health officials to promote sales of medical devices in Greece, Poland and Romania

Table 1: The Ten Largest Global Business Corruption Cases⁵

The overview deals solely with the penalties of companies; imprisonment sentences for individuals, members of the company management are usually not mentioned. All companies sentenced by the Department of Justice (DoJ) are Western global players and members of the OECD. Three of the top companies are based in the USA, the other two in Germany and France. Most of the bribed officials come from the developing and emerging countries. The legal basis for the conviction is the Foreign Corrupt Practice Act (FCPA), which provides for sanctions against both companies and individuals. In five of the top ten cases, Nigerian public officials were bribed. The conspicuous accumulation of corruption cases in Nigeria is also reflected in a list compiled by the Nigerian human rights advocate Falana, who summed up the damage caused by the nine largest corruption cases in the years 1999 to 2016, which totalled over 70 billion USD. Thereof, USD 44.4 billion is attributable to the Nigerian oil industry, whose activities are pooled in the state-owned Nigerian National Petroleum Company.⁶

5 Tab. 1. Source: Table adapted and taken from **Goozner, Merrill (2011)**: The Ten Largest Global Business Corruption Cases, as of: 12/13/2011, URL: <http://www.thefiscaltimes.com/Articles/2011/12/13/The-Ten-Largest-Global-Business-Corruption-Cases>, as of: 05/01/2018.

6 **Falana, Femi (2017)**: Promoting Transparency And Accountability In The Recovery of Stolen Assets in Nigeria: Proposals For Reform, 11/16/2017, URL: <http://saharareporters.com/2017/11/16/promoting-transparency-and-accountability-recovery-stolen-assets-nigeria-proposals-reform>, as of: 05/01/2018.

Both the behaviour of companies and the state of the legal framework should be critically examined in this context. In the public discussion, the analysis of the factors favouring corruption plays a minor role. For the most part, the reception of the subject of corruption in the media is event-driven. A clear focus is placed on legal or criminal prosecution. However, the purely legal perspective obscures the causes and consequences of corruption. The legal treatise poses a hazard, because the detailed workup may relegate the crime dimension to the side-lines. What distinguishes corruption from a bicycle theft or bank robbery? The latter two involve one or more individual victims. In addition to one or a few directly affected victims, corruption affects a group of people (e.g., members of the public). Amongst others, this criterion sets corruption apart from conventional crime. In contrast to bank robbery, corruption undermines morale, shatters trust in institutions and erodes the rule of law. Corrupt practices both undermine the rule of law and drain financial resources. Consequently, the financial resources used by companies for the purpose of gaining illegitimate competitive advantage are no longer available for investments in innovative technologies and jobs, for example. The resources that could be used to increase the competitiveness of a company flow into false competition for the contract award kickbacks. Focus on the illegal gratuity of the competition parameter ensures a resource misallocation thus restricting investments in innovative processes and products. Competitiveness is negatively impacted by corrupt practices, at least in the medium to long term, which may also translate into lower tax revenues. Consequently, the government can only provide public goods, such as education or infrastructure, to a much lesser extent both in terms of quantity and quality. The effect of corruption can therefore affect individual opportunities for shaping the way we live. “Corruption deprives countries of their potential,[...]”⁷ says Eigen, initiator of the non-governmental organisation Transparency International (TI), founded in Germany, to summarise the consequences of resource deprivation from a national perspective. “The short-term benefits that can be obtained through corruption, are offset by reputational losses and economic damage”⁸ summed up by Blomberg the effects of corruption from a company’s perspective.

Transparency International is an established organisation raising awareness of corruption in the public and in the media. The organisation initiates measures such as the Coalition against Corruption, provides ongoing analyses of the corruption situation in various sectors and has published an annual global corruption index, the

7 **Transparency International (2004a):** Großprojekte im öffentlichen Sektor besonders durch Korruption geschädigt, URL: <http://www.transparency.de/Corruption-Perceptions-Index-2.540.98.html>, as of: 05/18/2009.

8 **Dalan, Marco/Hartmann, Jens/Seidlitz, Frank:** Bestechung kann teuer werden, in: Die Welt, as of: 03/25/2010, p. 3.

so-called Corruption Perception Index (CPI), since 1995.⁹ Previously, a corruption measurement was made to a limited extent in the context of general country risk considerations, e.g., by the commercial agency Business Environment Risk Intelligence, which has been involved in the country risk studies and ratings since the 1960s.

The Corruption Perception Index has become the most popular corruption measure worldwide. In 2016, it encompassed 176 states. It measures perceived corruption and is based on 134 sources from various organisations.¹⁰ Transparency International itself does not collect data, but uses the data already collected (poll of polls). The purpose of measuring the Corruption Perception Index is the perceived corruption of politicians and public administration. Another corruption indicator established by Transparency International is the Bribe Payers Index (BPI).¹¹ This index was created to determine the willingness of major exporting nations to bribe public officials in order to win contracts. The Bribe Payers Index draws attention to the supply side of corruption; it includes 28 industrialised and exporting nations, which together account for approx. 75 % of the global export volume. Both Bribe Payers Index and Corruption Perception Index are one-dimensional indicators. By contrast, the World Bank, which measures global governance, does not present governance one-dimensionally, but differentiates it into six distinct, measurable variables. Gerrig and Thacker note that the Corruption Perception Index correlates significantly with the World Bank's governance measurements.¹² A correlation can be based on a causal relationship, but causality is not mandatory. In this case, however, a causal relationship can be assumed. The International Monetary Fund (IMF) formulates the context as follows: "[...] environment characterised by poor governance offers greater incentives and more scope for corruption."¹³ Here it becomes clear that a fundamental understanding of political corruption should be made in conjunction with the concept of governance.

9 **Transparency International (2007a)**: Anhaltende Korruption in Entwicklungsländern verlangt globales Handeln, press release as of: 09/26/2007. URL: http://www.transparency.de/fileadmin/pdfs/Korruptionsindices/07-09-26_CPI2007_PM_TI-S_deutsch_final.pdf, as of: 01/21/2009.

10 **Transparency International (2016)**: Corruption Perception Index 2016, URL: <https://www.transparency.cz/wp-content/uploads/Corruption-Perceptions-Index-2016.pdf>, as of: 02/03/2018.

11 **Transparency International (2011)**: Bribe Payers Index (BPI) 2011, URL: https://www.transparency.org/whatwedo/publication/bpi_2011, as of: 05/18/2016.

12 See **Gerrig, John/Thacker, Strom C. (2004)**: Political Institutions and Corruption: The Role of Unitarism and Parliamentarism, in: British Journal of Political Science, Vol. 34, pp. 295–330.

13 **International Monetary Fund (2008)**: The IMF and Good Governance. A Factsheet, URL: <http://www.imf.org/external/np/exr/facts/gov.htm>, as of: 01/21/2009.

Governance is also a key issue in the European Union (EU). This is reflected in the fact that governance has been one of the four strategic objectives of the European Union since 2000. The European Union understands the term ‘governance’ to mean the ability of a state to serve its citizens; this is of particular importance in the European integration process. According to the interpretation of the European Union, governance serves to build bridges between citizens and the Union. Among other things, this involves policy implementation in cooperation with the civil society Organisations. The “right to good administration”¹⁴ is enshrined in Article 41 of the ‘Charter of Fundamental Rights of the European Union’. In 2001, the fundamental right was further clarified and incorporated into the “White Paper on European Governance”¹⁵ in the form of the ‘Five Principles of Good Governance’. In the perspective of the European Union, these principles include openness, participation, accountability, effectiveness and coherence. The five principles are complementary to the two fundamental European policy principles of proportionality and subsidiarity. In order to gain information about the perceived quality of governance, the European Union has established the so-called Euro barometer. For this purpose, representative citizen surveys are conducted twice a year.

Global institutions such as the OECD, the United Nations and the World Bank have contributed greatly to the global breakthrough of the term ‘governance’; the institutions have developed extensive definitions and in some cases also statistical measurement concepts. Global organisations attach particular importance to the concept, since governance usually means a comprehensive and holistic view of the institutional framework of a state.

The term “governance” has made its way into science. Jann calls governance “the social science theme”¹⁶. The term governance left the phase of a short-lived fad and has taken a firm place in the social sciences. Governance has established itself in various scientific disciplines, starting from economics. In his systematisation, Schuppert lists six different scientific sub-disciplines, in whose theories of the governance concept

14 **European Union (2000)**: Charta der Grundrechte der Europäischen Union, Amtsblatt der Europäischen Gemeinschaften, as of: 12/18/2000. URL: http://www.europarl.europa.eu/charter/pdf/text_de.pdf, as of: 01/21/2009.

15 **European Union (2001)**: Kommission der Europäischen Gemeinschaften, European Governance – A White Paper, as of 07/25/2001, URL: <http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com20010428en01.pdf>, as of: 01/21/2009.

16 **Jann, Werner (2006)**: Governance als Reformstrategie – Vom Wandel und der Bedeutung verwaltungspolitischer Leitbilder, in: Gunnar Folke Schuppert (ed.): Governance-Forschung. Vergewisserung über Stand und Entwicklungslinien, Baden-Baden, pp. 21–43.

plays a central role.¹⁷ The concept of governance has been particularly widespread in political and economic sciences, so that the terms “good governance” and “corporate governance” is counted as standard vocabulary.

Dealing with political corruption and related governance is one of the key tasks of political science because it is all about what constitutes good governance, what threatens it, how it can be secured and what its historical roots and determinants are. According to Eigen:

“Corruption is a fundamental evil of our time. It shows its ugly face everywhere. It is at the root of almost all the major issues – or at least prevents them from working – and is particularly devastating in the poor regions of the world, where it keeps millions of people trapped in misery, poverty, disease, violent conflict and exploitation.”¹⁸

Eigen’s statement draws attention to the states, which are usually the worst ranked figures in the Transparency International ranking. Most of the states that belong to the poor regions of the world used to be colonial states or were within the sphere of influence of colonial powers. Almost all of these countries also show a weak degree of governance by global standards. In western democracies it is normal for the governed to vote down the government if dissatisfied with its performance. This control mechanism obviously works very differently in global terms. This becomes clear when one takes a look at the Transparency International’s Corruption Perception Index and the World Bank’s governance indicators for Africa, Asia, Latin America; these country groups are all underperforming globally, with Africa ranking last. In explaining why the regions, and Africa in particular, have enormous governance and political corruption problems, both concepts need to be extensively investigated, including, in particular, historical aspects.

1.2 Objective of the Thesis

The derivation and identification of the research gap is done in a brief and result oriented fashion. The temporal horizon of the reference analysis dates back to the mid-1990 s. At that time, the governance-corruption complex was taken up, among other things, by global institutions such as the World Bank, United Nations and OECD. Due to the issue of corruption, the topic has experienced a positive change in perception over the past 30 years. Governance and corruption are characterised

17 **Schuppert, Gunnar Folke (2006):** Governance im Spiegel der Wissenschaftsdisziplinen, in: Gunnar Folke Schuppert (ed.): Governance-Forschung. Vergewisserung über Stand und Entwicklungslinien, Baden-Baden, pp. 371–469.

18 **Eigen, Peter (2003):** Das Netz der Korruption – Wie eine weltweite Bewegung gegen Bestechung kämpft, Frankfurt and New York, p. 11.