

THE ROLE OF QUANTITY SURVEYORS IN FIGHTING CORRUPTION IN THE CONSTRUCTION INDUSTRY IN NIGERIA^{*}

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Corruption is a threat to the attainment of the Sustainable Development Goals, economic growth, social cohesion, peace, security, democracy and inclusive welfare. Corruption is endemic yet abhorred by the masses in Nigeria. The Supreme Court of Nigeria acknowledged the abhorrence of the Nigerian masses for corruption and the origin of the Corrupt Practices and Other Related Offences Act 2000 (“ICPC Act”) in *FRN v. Anache*¹ where Belgore JSC (as he then was), who read the lead judgment, observed that:

In my view, a corrupt society will trouble or disturb the peace, order and good government of the entire country. For instance, where it is realized that persons in government freely put or dip their hands in the treasury and steal government money at will, the masses will complain and such complaints could threaten the stability and social equilibrium of the country. In most nations, including Nigeria, the masses abhor corruption and that is one reason, though not the most important reason, why the ICPC Act was enacted.²

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¹ (2004) 1SCNJ 1

² *Ibid*

Corruption affects the economy of countries and militates against sustainable development in several ways: “It reduces the effectiveness of public administration and makes public expenditures inefficient. Most seriously, corruption erodes the rule of law, harms the reputation of the state and weakens citizens’ trust in the institutions of state, as well.”³

The construction industry (which embraces infrastructures, industries, building) where Quantity Surveyors operate is critical to the economic growth and sustainability of every country because corruption is entwined with every aspect of national life. The construction industry provides infrastructure, employment, shelter, industries, mines, etc. While the construction industry can be an engine of growth, it is also globally renowned as a sector that is prone to corruption. The pre-tender stage, procurement stage, hand-over or delivery stage, and maintenance stage of construction projects are all associated with serious corruption risks.

Quantity Surveyors and other building and construction professionals play a pivotal role in the construction industry and their value to sustainability cannot be overstated. It has been said that it is “an impossible mission to fight and win corruption and financial crimes in Nigeria without the input of Quantity Surveyors.”⁴ However, the critical linkage between the role of quantity surveyors in the delivery of construction projects and how non-adherence to ethical standards of quantity surveyors can exacerbate corruption at various stages of a project circle, has not been sufficiently explored. This Dinner Speech will briefly highlight the important role of that Quantity Surveyors can play in the fight against

³ The World Bank, CORRUPTION from the Perspective of Citizens, Firms, and Public officials: Results of Sociological Surveys, Second Edition, 2012 p. 29

⁴ Nnadi E.O.E. and Alintah-Abel .U. “Utilization of Quantity Surveyors’ Skills in Construction Industry in South Eastern Nigeria” International Journal of Latest Research in Engineering and Technology (IJLRET) Volume 2 Issue 2| February 2016 | PP 42-51 available at www.ijlret.com Last accessed 10/7/2019 13:47 PM

corruption in Nigeria and how this can contribute to economic growth and sustainable development. I shall strive not to ruin our appetite.

Grappling with the Concept of Corruption

The concept of corruption is one of the most elusive terms in law, the social sciences and economics. The United Nations Office on Drugs and Crime acknowledged this fact when it observed that:

Attempts to define or classify corruption for various purposes have been based on many different perspectives and criteria, including: moral criteria; descriptions of the conduct or behaviour involved; models involving conflict of interest, breaches of trust or abuses of principal agent/client relationships; economic, political and administrative models; distinctions based on whether the corruptions involved public or private-sector actors or interest; and on factors such as whether the actors were engaged in organized crime or more ad hoc forms of corruption. Corruption may involve cash or economic benefits, power or influences or even less-tangible interests, and occurs in both government and the private sectors, in free market and closed economies and in democratic and non-democratic governments and societies.⁵

The concept of corruption “suggests that there are certain normative values cherished by members of any society and which legitimize the established institutions of that society. Such normative values are associated with justice, liberty, equality, law, education, and peace. By its internal logic, corruption violates

⁵ Ibid.

these normative values and thus offends the society's moral sensibilities.”⁶ Viewed from this lense, corruption can be approached as a breach of moral duty, betrayal of trust, or illegal, improper or unethical performance of duties for personal gain. Corruption is like an elephant that is difficult to define but easily recognizable by such distinctive features. Corruption encompasses behavior such as bribery, fraud, nepotism(cronyism), misappropriation or theft of public property, extortion, forgery, illicit wealth, embezzlement, etc.

Methods of Fighting Corruption

The main methods of fighting corruption are enforcement and prevention. Enforcement involves investigation and prosecution of culprits. However, corruption can also be fought by prevention. ICPC is statutorily empowered to adopt both enforcement and prevention methods. Specifically, the mandate of the ICPC are:

- To receive and investigate any report of commission of corruption and related offence and, in appropriate cases, to prosecute the offenders
- To examine the practices, system and procedures of public bodies and where, in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, to direct and supervise a review of the practices, system and procedures;
- To instruct, advise and assist any officer, agency or parastatals on ways by which fraud or corruption may be eliminated or minimized by such officer, agency or parastatal;
- To advise heads of the public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the duties of the

⁶ Anikpo, M “Reflection on the Nature of Corruption” in Odekunle, F. (ed.) Nigeria: Corruption in Development (Ibadan: Ibadan University Press, 1986) pp. 59-65 at P. 61.

public bodies as the commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences;

- To educate the public on and against bribery, Corruption and related offences; and
- To enlist and foster public support in combating Corruption.

Surveyors and Nigerian Institute of Quantity Surveyors as a professional body have vital roles to play in the prevention of corruption within their circles of influence, which is building, industrial, and infrastructural construction and development.

Corruption in the Construction Industry as Impediment to sustainability

The construction industry is one of the most important sectors of the Nigerian economy. The industry is estimated to account for about 70% of Nigeria's fixed capital formation and 1.4% of the country's Gross Domestic Product (GDP). The industry employs approximately 8 million people, which represents about 25% of the Nigeria workforce thereby constituting one of the largest employers of construction labour in Africa.⁷

Corruption is systemic in Nigeria and no sector is immune from the insidious monster. The construction industry is not an exception. Writing on corruption in the Nigerian construction industry, Ayodele found that:

[B]etween 5% and 15% and a times up to 40% were illegally expended in bribery and corruption to high and management officials in Government offices during contract award, execution and

⁷ Prof. Bolaji Owasanoye "Corruption, Construction and the University System in Nigeria: Any Correlation?" being a paper presented at the Faculty of Environmental Design and Management Gust Lecture, 25 January, 2018.

*payments. The result also showed the effects of bribery and corruption as building collapse, abandonment of project, upward review of contract, cost, extension of time and reduction in the life span of building.*⁸

Quantity Surveyors are engaged in the building and engineering construction sectors of the economy which includes the following:

- Residential Housing Estate
- High rise buildings
- School Classroom Blocks
- Shopping malls
- Hospitals
- Roads, Bridges, Railways , Dams, airports, seaports, etc.
- Power Plants, Refineries, Steel Mills, Telecommunication etc.⁹

Unfortunately, the cankerworm of corruption is present in the construction industry just as it pervades other sectors. Some writers have stated that:

*The Nigerian construction industry is extremely susceptible to ethical erosion due to heterogeneous nature of the industry which makes it imperative for construction professionals to exhibit high level of professional ethics. One of the deterrents[sic] of meaningful development in the Nigerian Construction Industry is the menace of corruption and corrupt practices.*¹⁰

⁸ Ayodele E. O. "Bribery and Corruption-Threats to the Nigerian Construction Industry Economy" International Journal of Engineering India (2010) Vol. 4(2) pp 257-262 cited in Ayodele E. O., et al. "Corruption in the Construction Industry in Nigeria: Causes and Solutions" Journal of Emerging Trends in Economics and Management sciences (JETEMS) Vol. 2(3) pp 156-159 at 157

⁹ ibid

¹⁰ Oyetubi, L.O. et al. "Determinants of Unethical Performance in Nigerian Construction Industry" Journal of Sustainable Development Vol. 4, No. 4; August 2011 p. 175 available at www.ccsenet.org/jsd Last accessed 10/07/2019 13:40 PM

The same writers¹¹ identified the consequences of unethical conduct and corrupt practices in the construction industry as follows:

- Unethical or corrupt practices distorts construction process and thereby hamper economic growth and development.
- Unethical performance hinders the free play of market forces,
- discourage economic aid from the foreign donors
- hinder investors

In addition to the above, unethical behavior by construction professionals have the following consequences:

- non-delivery of projects;
- unemployment due to abandonment of projects;
- abandoned projects such as health, education, housing, and poverty reduction projects;
- loss of government revenue, etc.

Duties of Quantity Surveyors

The core duties of a QS in construction projects are:

- ❖ Conduct of feasibility studies of major projects.
- ❖ Preliminary Cost advice or preparation of Cost Estimates, Budgets, Cost Planning, Cost Checks and Cost Control.
- ❖ Tender/Contract Documentation which includes preparation of Bills of Quantities and other Tender documents, giving advice on Tendering/Bidding procedures, Contractual arrangement and Tender Evaluation and Analysis.
- ❖ Contract Administration which involves the management of construction works and cost during the execution of the project.
- ❖ Project Management which means the co-ordination of the efforts of all the Consultants, Contractors and other participants from the inception of the

¹¹ Ibid at 177

project to completion in order to achieve desired result within pre-determined Time and Cost frame work.

- ❖ A QS can also monitor projects, give expert evidence in court or dispute resolution proceedings, etc

The lion share of major construction projects in Nigeria is undertaken by government. The various stages of a project cycles offer immense opportunities for corruption which only ethically responsible quantity surveyors can avoid breach of ethical and legal prohibition of engagement in such vices.

Ethical Obligations of Quantity Surveyors

In the performance of his functions, a QS stands in a fiduciary relationship and must act ethically and in compliance with the standard of conduct of a professional and moral agent. Four ethical codes are associated with the profession of Quantity Surveying. These are:

- Fairness
- Transparency
- Accountability
- Responsibility.

Interestingly, the ethical codes of Quantity Surveyors share some semblance with the fundamental principles of public procurement under the Public Procurement Act, 2007 which are:

- open competitive bidding;
- transparency;
- accountability;
- achieving value for money and fitness for purpose;
- competition and promotion of economy and efficiency.¹²

¹² See section 16 (1) of the Public Procurement Act 2007

Also, section 16(6) (a)(i) of the Public Procurement Act requires all bidders to have professional and technical qualifications to carry out, particular procurements. This makes quantity surveyors masters of the public procurement process.

Quantity Surveyors have a huge responsibility to society. The Code of Professional Conduct Standards for Quantity Surveyors 2008 affirms this responsibility and enjoins Quantity Surveyor to bear this in mind in all their dealings. Specifically, a Quantity Surveyor must act with honesty, integrity, fairness, and with independence in their dealings with members of the public and fellow professionals.

Unfortunately, Agele Alufohai, a former President of Nigerian Institute of Quantity Surveyors bemoaned the fact that some Quantity Surveyor have not lived above board but blamed the situation in systemic corruption. According to him:

So let me say there may be some quantity surveyors who have found a way to cut corners... In my opinion, we leave too much room open for corruption in our system, so because many people are engaged in it. It's more difficult to catch and punish people. It's at a level in which it is a kind of socially acceptable thing.¹³

Amongst the consequences of corruption mentioned in the above quotation are building collapse, abandonment of projects, upward review of contracts, cost over-run, reduction in the lifespan of construction projects. Many of us remember too well the human toll of building collapse in Nigeria. Everybody in Nigeria who ply Nigerian road is a victim of shoddy road construction or roads that collapse before the usual lifespan of such projects in other countries. Major projects are also sometimes abandoned. The consequences of abandoned projects are absence of project delivery, and such projects could be a hospital or school, with concomitant

¹³ Agele Alufohai, former President NIQS quoted by Ani, K. J. "Corruption, Social Violence and Ethical Culture in Nigeria" Independent Journal of Management and Production, Vol. 5, No. 3, Jnue-September 2014 pp 829-851 at 837

loss of amenities and other negative multiplier effects. Government money that should otherwise be deployed towards other projects and service must be spent on such abandoned or shoddily executed projects.

In a 2018 lecture that I delivered¹⁴ I affirmed the indispensable guardian role of Quantity Surveyors as follows:

Quantity Surveyors have the unique privilege of being able to assist the nation shed light on the true cost of projects as opposed to the lies often sold to the public by corrupt governments and their collaborators in the private sector. Unfortunately, rather than act as watchdogs of national patrimony and expose in a structured and systematic manner the brigandage and kleptomania of corrupt government officials, politicians and their collaborators in the private sector in big construction and infrastructure projects, some Quantity Surveyors act as collaborators while the parent body could also be ominously quiet.¹⁵

ICPC Collaboration with the Nigerian Institute of Quantity Surveyors in Tracking Constituency Projects

Constituency projects were conceived as grassroots projects when delivered would positively impact the lives of Nigerians at the grass-roots through the provision of health facilities, water, rural roads etc. Over the years, these projects have been enmeshed in corruption and controversy. The ICPC set up the CPTG to ensure that these projects are executed to touch the lives of Nigerians positively the way they ought to. The first phase of tracking of selected funded projects by the CPTG has commenced States in in all six geopolitical zones of the country. States not covered in this phase would be covered in subsequent phases to ensure that constituency

¹⁴ Op cit

¹⁵ ibid

projects in every State and local government area are reached to determine the level and quality of execution of such projects.

The ICPC has set up a Constituency Projects Tracking Group (“CPTG”) to track constituency projects across the country. I seize this opportunity to thank the President and members of NIQS for their support in the work of the ICPC CPTG. NIQS along with other critical stakeholders is partnering with the ICPC in the tracking of constituency projects. NIQS has offered this support pro bono.

Reports from various states confirm that in some cases projects were abandoned or poorly executed. Some contractors have rushed back to site upon seeing CPTG teams. CPTG teams have recovered ambulances and hospital equipments that were diverted. The Commission will take enforcement action against any contractor that fails to complete and deliver projects to specification. I advise contractors to do the right thing before the Commission commence enforcement action. The ICPC is committed to bringing any person who is responsible for diversion of money or property meant for constituency projects to justice.

The Regulation of Quantity Surveyors in Nigeria

The main law regulating the practice of the profession of quantity surveying in Nigeria is the Quantity Surveyors (Registration, etc) Act¹⁶. This Act created the Quantity Surveyors Registration Board of Nigeria. Sections 7 and 8 of the Act made provision for the registration of quantity surveyors in Nigeria. The Act also makes provisions for the professional discipline of Quantity Surveyors by creating the Registered Quantity Surveyors Disciplinary Committee. The Disciplinary Committee can direct that the name of a Quantity Surveyor be removed from the Register for certain infractions.

A major flaw in this Act is that it gives the Disciplinary Committee too much discretion in the punishment that it can impose even after a quantity surveyor has

¹⁶ Cap Q1, LFN, 2004 (formerly Cap. 383 LFN 1990).

been convicted for an offence. There is no express mention of the sanctions that the Disciplinary Committee can impose, for instance, if the quantity surveyor is implicated in allowing the use of substandard building materials which causes a building collapse.

From the perspective of an average Nigerian, the internal rules of quantity surveyors, like the professional codes of ethics of many other professions in Nigeria, has not achieved the desired results perhaps because the personal preferences of some members of major professional bodies in Nigeria are not corruption averse.

Role of Quantity Surveyors in Attainment of Sustainable Development

Corruption is a threat to sustainable development. The Role of quantity surveyors in ensuring sustainable development can best be appreciated by the role that the construction industry plays in a nation's economy. This was aptly captured by Olatunji, et al¹⁷ as follows:

Both developing and developed nations have realized and understand the significance of construction sector -in socio-economic and sustainable development of a country. Construction activities are closely linked with the various phases of economic development of a country... Construction projects impact on a nation's economy. Successful completion of construction projects leads to wealth creation; socio-economic growth and improved standards of living. Nations are evaluated as "developed", "developing" and "underdeveloped" based on the quantity and quality of completed construction projects in their domain.

¹⁷ See Olatunji, S. O., et al "Effect of Construction Project Performance on Economic Development of Nigeria" Journal of Economics and Sustainable Development Vol.7, No.12, 2016 142 at 145

Quantity Surveyors play specific roles in the construction industry. Where a Quantity Surveyor acts in negation of the ethical principles of his profession, it could have far-reaching human, environmental, social, and economic impact.

Conclusion

Let me conclude with the concept of value for money and ask if Nigerians have been getting value for money from major construction projects in Nigeria. Using roads as an example, the cost of major road projects in Nigeria is reported to be way above the cost per kilometre in some of the most challenging terrains in the world. Nigeria constructs less roads per kilometre than neighbouring Ghana. In terms of costs, Nigeria certainly has not gotten value for money per kilometre of roads. In terms of quality, we cannot wish away the fact that in most instances, contractors mobilise to site for “maintenance” a few months after “completion” of some road projects in Nigeria. Nigeria has certainly been short-changed in the quality of some of the roads, yet construction professionals certify these roads for payment.

Develop countries which we admire got to where they are today because of the conscious efforts of professionals in different spheres to work towards the advancement of their societies. The action of each professional matters in the scheme of things. The job of maintaining the integrity of a profession and a nation is the collective responsibility of every citizen and not just those at the helm of affairs. I join in wishing the newly inducted members of NIQS the very best in their future professional careers.

Thank you for listening!