

## Original Paper

# When Anti-Corruption Meets Industrial Policy: Nigeria's EFCC's Function Creep into Industrial Policy Enforcement

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### **Abstract**

*Industrial policy in countries characterized by high levels of unproductive and disorganized corruption is, unsurprisingly, also ridden with high levels of corruption. With dispersed distributions of power, it is more difficult to create and maintain pockets of bureaucratic effectiveness to drive successful industrial policy. This is the case in Nigeria. There has, however, been no research into the involvement of its premier anti-corruption agency, the Economic and Financial Crimes Commission (EFCC), in industrial policy enforcement. The article identifies this phenomenon through news reports and proposes avenues for empirical research and policy experimentation. The EFCC has, over years, been involved with development loan recoveries, local content policy enforcement and infrastructure contract enforcement. These have often been at the invitation of the relevant implementing agencies which often display inundation with the enforcement challenge. Its substantial investigative and prosecutorial capabilities acquired from anti-corruption activities in a highly corrupt country have made it a key agency for others to call when help with enforcement is needed. There are some indications of propositions to institutionalize or regularize the EFCC's involvement in local content policy and infrastructure contract enforcement, but no serious attention has been paid to these in the literature or news circles.*

### **Keywords**

*political settlements, corruption, EFCC, pockets of effectiveness, Nigeria, industrial policy*

## **1. Introduction**

Industrial policy is important for the facilitation of industrial development, economic diversification and structural transformation (Rodrik, 2008). Yet the implementation capacity of the state varies wildly across countries and time. Some states have been more prone to “government failure” than others,

especially in Africa. This is especially the case in countries where the politics is characterized by high levels of contestation within the ruling coalition, which makes rates of corruption and difficulties in implementing industrial policy greater (Khan, 2010). Controlling bureaucrats and centralizing rent management is often difficult under such circumstances, and preventing rent-capture by recipient capitalists and firms may also be difficult, especially when the latter also have political influence (Whitfield et al., 2015).

Nigeria suffers from high levels of unproductive and uncoordinated corruption as a result of its competitive clientelist political settlement (Usman, 2020), relatively small formal sector, and oil-based rentier political economy (Roy, 2017). This is also reflected in its industrial policy. It is therefore important to identify politically-informed ways in which industrial policy implementation could be improved. To this end, the article identifies the EFCC's engagement with industrial policy institutions as a possible avenue for further research and experimentation. Using news reports, it argues that the agency seems to have become involved in industrial policy enforcement in the areas of development loans, infrastructure projects and local content policy. This is often at the invitation of the various implementing agencies which seem inundated with defaults and corruption among the recipients and subjects of the industrial policy tools and supports implemented and provided. The depth, extent and effectiveness of the EFCC's involvement are unclear, although suggested as positive in some cases.

Theoretically, this seems to be due to the EFCC receiving high-level support to develop strong investigative, forensic, prosecutorial capabilities, and demonstrated effectiveness at securing convictions among some population segments. The high-level support arises due to its utility in signaling a strong anti-corruption stance to the international political and financial community during the economically precarious Obasanjo era; its political instrumentality for attacking political opponents; and its electoral utility for signaling an anti-corruption position to the populace of a country for which corruption is a top perceived impediment to development and public welfare. To identify its foray into industrial policy enforcement, content analysis of news reports is undertaken.

The next section briefly reviews the literature on mission creep and pockets of effectiveness with respect to industrial policy implementation. Following this is a summary of the EFCC's performance over the years. Subsequently, evidence is provided from news reports that the EFCC has been involved in industrial policy enforcement in Nigeria. This is then concluded with a discussion of research paths and methods, and then concluding remarks.

## **2. Theoretical Background**

Early development economists largely took for granted the industrial policy implementation capacity of states. In the 1960s when decolonization in Africa was the trend, Green (1963, p. 164) complained about how "general writings on development usually devote substantial attention to institutions, but either say very little about the forms appropriate to Africa or take some set of assumptions based on industrial economies". Within his analysis of African state institutions, he then proceeded to argue that

the “implicit belief that single institutions should normally concentrate on one aim, are highly unrealistic and operationally undesirable in many African situations” (Green, 1963, p. 165). For African states a much broader view of the role of institutions as policy-implementing agencies is needed, emphasizing the changing and flexible institutional structures needed for African states, at least in the short-to-medium term (Green, 1963, p. 165).

Green (1963) drew from the example of the Ghana Cocoa Marketing Board experience of 1938-60, which spontaneously extended its policy objectives from short- and long-run cocoa price stabilisation to income stabilisation, redistribution and effectively fostering the implementation of fiscal and monetary policy by making the collection of revenue easier and by favouring the release of aggregate purchasing power, respectively (Serra, 2014, p. 13). There was even at some point independent Board construction operations on the local amenity level, given the weakness of the Public Works Department and private contractors in terms of specialized competence and available personnel relative to the Board (Green, 1963, p. 170). This extension arose spontaneously, and Green argued that it may be more deliberately fostered.

Green’s argument for a being in constant search for spontaneous emergence of multi-purpose institutions and deliberate fashioning of such institutions seemed to have gone without influence, with only a few citations in about 50 years since the paper was published. Generally, Bierschenk (2010) notes that since the early periods of independence there was not much published work on the bureaucracy in Africa.

The industrial policy experience of Latin America and postcolonial Africa under import-substitution industrialization strategies brought the problem of low state capacity to the foreground (Evans, 1995). Subsequent theoretical developments have improved understanding of these processes, especially from those who studied the East Asian developmental states (Amsden, 1989; Evans, 1995). In addition, broad stroke descriptions of “government failure” (Krueger, 1990) and “neopatrimonialism” (van de Walle, 2001) have given way to “pockets of effectiveness” (Roll, 2014; Whitfield et al., 2015; Hickey, 2019). The development of the political settlements framework (Khan 2010) and subsequently the elaborated political settlements framework (Whitfield et al., 2015) provide valuable insights into the phenomenon of industrial policy and pockets of bureaucratic effectiveness.

Within the political settlements approach, a political settlement is “a description of the distribution of power across organizations that are relevant for analyzing a specific institutional or policy problem” (Khan, 2017, p. 640). A ruling coalition which faces a fairly low degree of contestation within the coalition and a low degree of vulnerability to excluded elites would be better able to focus on long-term development rather than short-term political survival. The ruling elites would also be better able to create and maintain pockets of bureaucratic effectiveness and cohesion with which to implement industrial policy. This pocket of effectiveness (PoE) refers to “public organizations that are relatively effective in providing public goods and services that the organization is officially mandated to provide, despite operating in an environment in which effective public service delivery is not the norm.” (Roll,

2014, p. 24). Due to their particular instrumentality to the ruling coalition, these PoEs receive strong political support.

Mutual interests between capitalists and ruling elites may arise to support industrial policy in a particular sector, for instance due to electoral, fiscal/economic pressures, and/or security pressures; or due to lobbying from capitalists or from the long-term horizon of secure ruling elites (Whitfield et al., 2015). Such mutual interests drive the creation, maintenance and sustenance of pockets of effectiveness. Ruling elites, especially where the bureaucracy is generally weak and/or the broader political settlement is characterized by a dispersed distribution of power, may still be confronted with the task of maintaining the PoE, shielding it from unproductive interference, and optimizing its operations.

Various measures have been identified within the development, political settlements or pockets of effectiveness literatures for improving the effectiveness of industrial policy implementing agencies. Nonetheless, Green's (1963) argument for multipurpose institutions may be resurrected in light of persistent difficulties in improving generalized state capacities over the course of decades, and the recent research into pockets of effectiveness. Within the PoE approach, there is the notion of "spillovers" of a PoE's capabilities and performance to other agencies (Roll, 2014, p. 39), regarded as the possible "holy grail" of the literature (Hickey, 2019, p. 11). However, Roll (2014) does not find evidence that PoEs tend to have positive effects on public sector performance more broadly. The political settlement underlying the emergence and maintenance of the PoE in the first place cannot be transferred to another agency simply through capacity-building and personnel transfer. Therefore, no case of spill-over has been observed in the literature (Hickey, 2019, p. 11).

Nonetheless, rather than propose the spill-over of PoEs to other agencies, Green (1963) implicitly argued for the allowance and encouragement of PoEs to extend their policy objectives, spontaneously or deliberately, into other policy domains. While alluding to the Cocoa Board's superior "specialized competence and available personnel" as the basis for its greater bureaucratic capacity and better performance, the reason for the emergence of this capacity in the first place was not assessed. Yet marketing boards perform a core state function of revenue generation, and Hickey (2019, p. 40) notes that such revenue generation bureaucracies typically become PoEs, protected and supported by the ruling coalition. Hence, whereas the interaction of historical contingencies and structural conditions can enable the emergence of political support for a particular bureaucracy and its emergence as a PoE, it should be allowed to be flexible enough to extend its policy objective and mandates as they spontaneously emerge when demand for such extension emerges.

Therefore, a phenomenon in the PoE literature, which has not been adequately explored, is mission creep. However, in the fields of public administration, political science and organizational sociology, the notion of "mission creep" has been systematically explored ever since Michels' (1959 [1915]) classic study of the German Social Democratic Party (Babb & Buira, 2004, p. 3). It has also been recently explored in studies of international bureaucracies (Littoz-Monnet, 2020). Driven by some form of crisis and perceived need (which creates windows of opportunity within the national or international

political settlement), and institutional entrepreneurship, a public agency can extend its mission informally or formally beyond its original mandate. This “mission creep” occurs through deliberate institutional entrepreneurship undertaken by an agency’s leadership and driven by ideas. Maguire, Hardy and Lawrence (2004, p. 657) define institutional entrepreneurship as the “activities of actors who have an interest in particular institutional arrangements and who leverage resources to create new institutions or to transform existing ones”. Mission creep has been identified in many areas, including central banking, national security law, the International Monetary Fund, the World Bank, and international investment agreements creeping into sovereign debt restructuring.

One possible instance of mission creep is identified in the case of Nigeria’s Economic and Financial Crimes Commission’s (EFCC) foray into industrial policy rent enforcement, operating within Nigeria’s competitive clientelist political settlement (Roy, 2017). Onyeaka et al. (2019) identify a function creep of the EFCC into areas of private debt recovery, which is a civil, rather than criminal issue. This arises due to delays, inefficiencies and other frictions present in the court system, as well as the EFCC’s capacity for corruption investigation and prosecution which provide added leverage over debtors. An area of the EFCC’s function creep, which has received little attention, is its creep into industrial policy enforcement. This is identifiable through news reports. The demand for its function creep is therefore not limited to private actors as is the focus of Onyeaka et al. (2019).

The argument made is that in post-military era of the Fourth Republic, the high corruption environment facilitated by the country’s competitive clientelism and oil-dependence produced its premier anti-corruption agency, the Economic and Financial Crimes Commission (EFCC). Its contribution to international credibility-building to secure debt forgiveness at a time of serious economic and fiscal constraint, and its informal instrumentality for hounding political opponents gave it high-level political support. Although it has not substantially reduced corruption due to the structural nature of the problem, it has garnered significant investigative capabilities. Its function creep into industrial policy enforcement is manifest, and there is the potential to strengthen its involvement in this area.

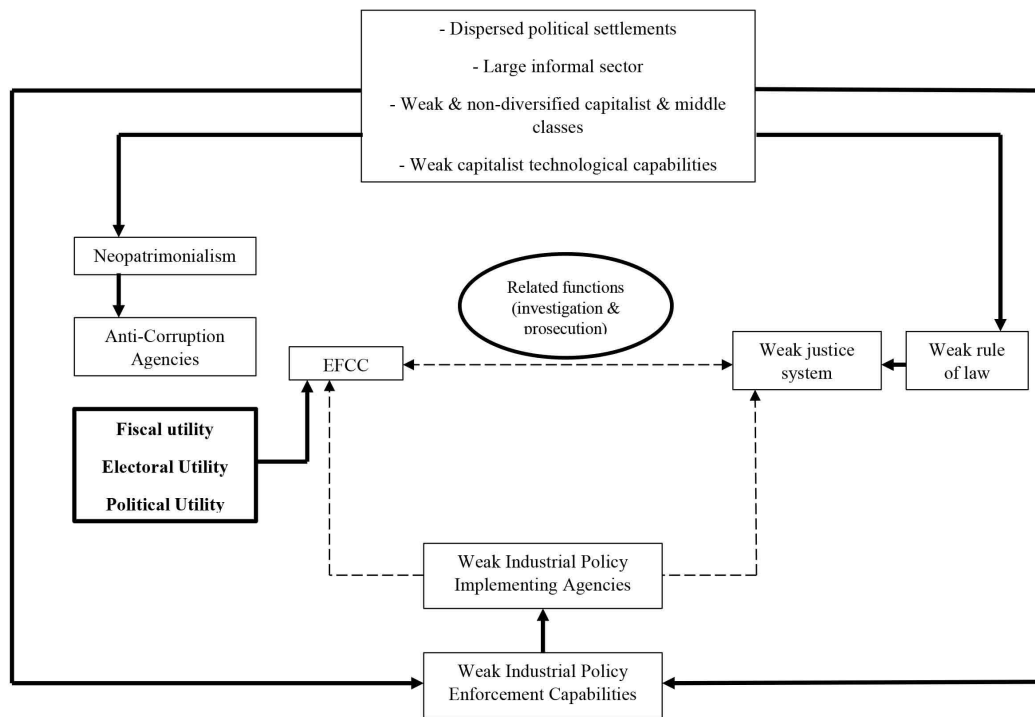
Under situations of generalized weak state capacity and political-economy-based emergence of PoEs, it may be argued that it is important to maintain an analytical framework of institutional flexibility, and identify situations of “capacity gap”. Where such capacity gaps exist, multi-purpose institutions can be created through the design of a closer working of the primary-mandate and secondary-mandate institutions, or subsuming the mandate under the relative PoE’s function.

Anti-corruption agencies may engage in cases in which fraud and other forms of corruption have taken place, whether in industrial policy jurisdictions or not. For instance, people may set up “false” industries and receive licences to import goods and then resell them on the open market. However, there is a difference between fraudulent and criminal activity (such as creating shell companies or “briefcase farms” and forging financial statements to apply for an industrial or agricultural loan) on one hand, and misuse of industrial policy rents after disbursement (for instance a genuine contractor failing to construct a road after receiving the mobilization fee, using an import license to import raw materials

for resale rather than for industrial use, or failing to put effort into meeting performance requirements or repeatedly defaulting on industrial loan repayments, which would warrant legal action through the court system). Function creep may begin to enter these latter, essentially civil, cases of industrial policy rent defaults.

Such spontaneous and *ad hoc* mission creep, enlargement of policy objectives or mandate extension is perhaps also detectable with the Nigerian army's activities in civil affairs (Mbachu & Ibukun, 2018), which is the mandate of the Nigerian Police Force. This arises due to the inefficiency of the police and the greater capacity of the army which receives greater high-level political support. In this case the military is better funded than the Nigerian Police Force (NPF) due to its instrumentality for foreign diplomacy and regional hegemony, historical legacies of military domination of national politics for the majority of Nigeria's postcolonial period, as well as the threat of military elites (as "violence specialists") to civilian elites requiring side payments to keep under the control of civilian ruling coalitions. It may also be detected in the Central Bank of Nigeria's (CBN) foray into development finance (Ekine, 2019), under the stress of limited forex reserves and given the failures of the state's development finance institutions (DFIs). In this case, many, including the Chairman Senate Committee on Agriculture, have called on it to hand over the Anchor Borrowers Programme to the Federal Ministry of Agriculture and Rural Development notwithstanding the fact that the latter is in financial distress (NAN, 2019). As Hickey (2019) notes, central banks typically become PoEs due to their instrumentality to the ruling coalition's need for financial and economic stability, as well as international pressures and support for central bank independence.

Combined with the EFCC case and Green's (1963) Ghana's Cocoa Marketing Board case, there is therefore *prima facie* evidence to suggest that function creep may be likely to emerge under three conditions. The first is when there is a triple "capacity gap" for three sets of state agencies – in this case, the administrative capacity of industrial policy implementing agencies relative to the demands for building productive capabilities; the administrative capacity of the judicial system as a third party which may handle cases of industrial policy rent default when the monitoring and sanctioning mechanisms of industrial policy implementing agencies fail, relative to the civil justice demands of the country; and the administrative capacity of the anti-corruption agency relative to the pervasiveness and depth of corruption in the country. The second is when the primary agency receives significantly greater high-level political support than the secondary agency for various political economy reasons (identified using political settlements analysis). And the third condition is when the functions of the primary and secondary agencies are related, although their mandates/policy objectives may differ. In the EFCC case, its investigative and prosecutorial powers enable it to have almost similar sanctioning functions possessed by the justice system and the monitoring and evaluation investigative apparatuses of industrial policy implementing agencies.



**Figure 1. The Triple Capacity Gap and Their Origins in the Political Settlement**

Source: Author's illustration.

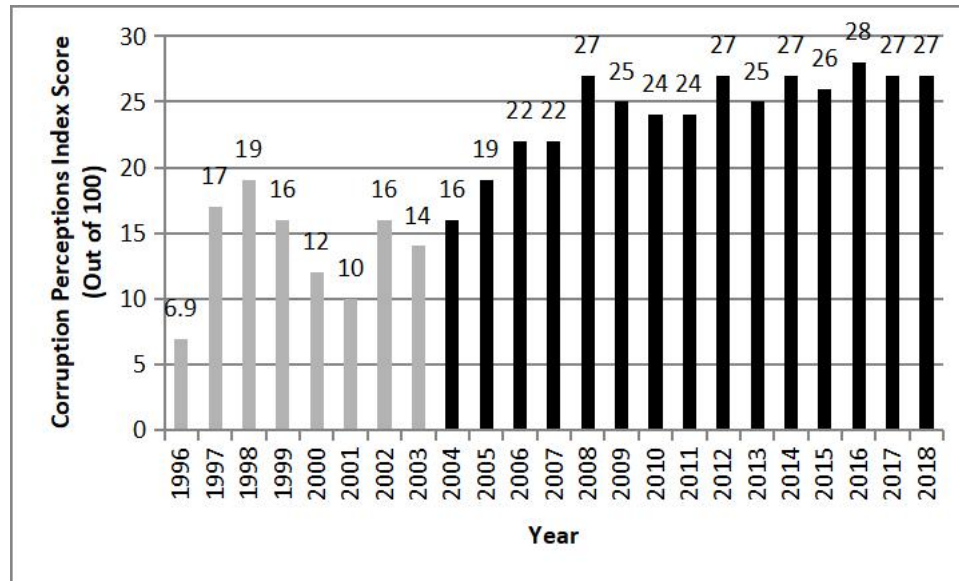
The case of the EFCC merely introduces the research agenda, and more in-depth empirical research is required to unpack the validity, dynamics, constraints and opportunities involved in the phenomenon.

### 3. Efcc and Its Performance in an Adverse Context

The EFCC is Nigeria's dominant anti-graft agency, established by the Economic and Financial Crimes Commission (Establishment) Act of 2004. It is empowered to prevent, investigate, prosecute and penalise economic and financial crimes.

However, Nigeria's experience with anti-corruption efforts supports the general expectation that "anti-corruption reforms that do not take into account the political settlement are likely to be met with resistance and failure" (Anti-Corruption Evidence 2017, 5). While the EFCC has been in operation for 16 years, it has had limited impact on generalized corruption in Nigeria. From the available official data, from 2010 to 2015, the EFCC secured 3.75% convictions of investigated cases, and 23% convictions of cases filed (Enweremadu, 2013, p. 26). After the establishment of the EFCC in 2004, there was an improvement in the Corruption Perceptions Index (CPI) until 2008 (27), after which it plateaued, never exceeding 28 and remaining at 27 in 2018, below the sub-Saharan African average of 32 (Transparency International 2019a, 4). According to the World Bank's control of corruption metric, between 2005 and 2015, Nigeria consistently ranked below the 20<sup>th</sup> percentile globally in its control of corruption, well behind Ghana and South Africa, and with little indication of improvement (Roy, 2017,

p. 5).



**Figure 2. Nigeria's Corruption Perceptions Index Scores (1996-2018). Dark bars are years in which the EFCC was operational. Source: Author's illustration based on Transparency International (Transparency International 2019b)**

An estimated US\$400 billion of Nigeria's oil revenues has been lost to corruption since Nigeria's independence (Okoye, 2012), with the EFCC only recovering a very small fraction of looted funds. In the period 1970-2004, the equivalent of about 40% of 1980-2000 oil exports is estimated to have been lost in illicit capital flight (Enweremadu, 2013, p. 221).

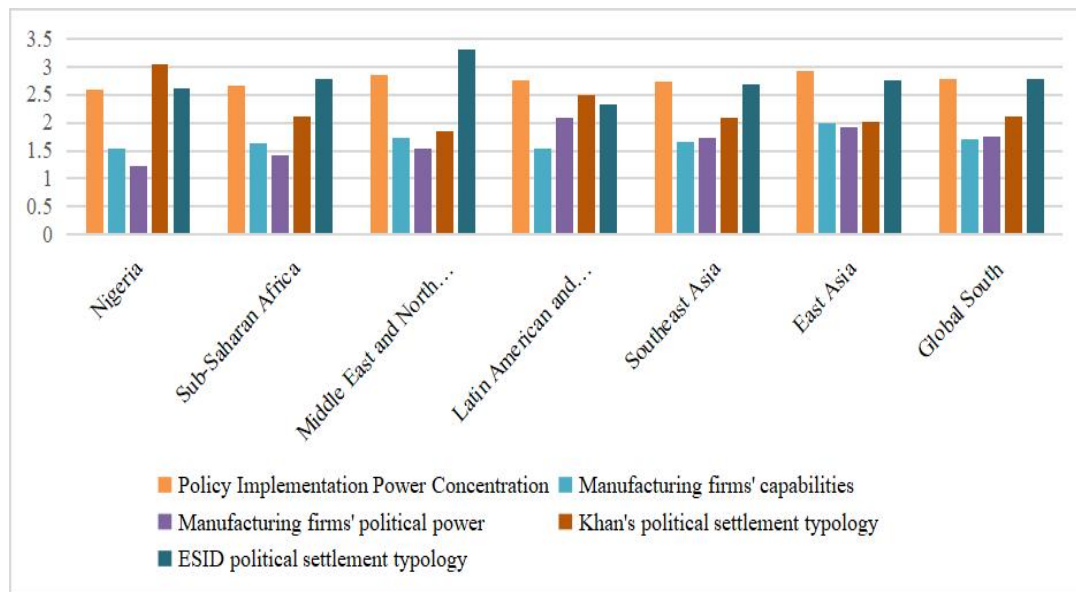
There are also high levels of unproductive corruption and inefficiency in industrial policy implementation. Many of the tariff provisions and import bans have not adequately stimulated domestic production, and import bans have been difficult to enforce and hence encourage smuggling (Raballand & Mjekiqi, 2010, pp. 207-210). There are abuses of import duty waivers (Modebe et al., 2014). Action Aid and Tax Justice Network Africa surmised that Nigeria could be losing an estimated \$2.9 billion annually to corporate organizations as incentives, and \$327 million on import duty exemptions (Anyadike & Eme, 2017, p. 40). Development finance institutions are also ridden with corruption (Page & Okeke, 2019). Public enterprises have also been very corrupt and a drainage on public resources and debt. By 1999 many of them were moribund, as was acknowledged by even one of the presidents under whom many were created (IOL, 1999).

The result has been limited success in industrial policy efforts and a low manufacturing share of national output. The consequent lack of economic diversification into higher-productivity industries means that economic growth, wage growth and employment growth fail to keep up with the growing population, resulting in a stagnant GDP per capita, median wage levels, high poverty rates and unemployment rates. The country's manufacturing value added share of GDP in 2020 was only 12.7%,



well below its level of 20.3% in 1981 (World Bank 2021).

By operating in one of the most corrupt countries in the world (ranked the most corrupt by Transparency International in 1999), the EFCC's capacity emerged due to its instrumentality in avoiding being ostracized from the mainstream global financial system (Page, 2021, p. 13) when the economy and state finances were under serious pressure in the first few years of the 21<sup>st</sup> century (Enweremadu, 2012; Usman, 2020). Although political and budgetary support for it is in general less than it should be, given the scale of corruption in the country, the EFCC still received political protection at the highest level of politics (Thurston, 2018).



**Figure 3. Nigeria's Political Settlement in Comparative Perspective. Nigeria's Power Concentration, Manufacturing Firms' Capabilities and Political Power are Weaker than the Sub-Saharan Average and Its Political Settlements more Dispersed than the sub-Saharan Average**  
*Source:* Author's illustration based on Schulz and Kelsall (2020).

However, contrary to expectations, the huge debt write-off the country won in April of 2005 did not lead to the abandonment of the anti-corruption policy (Enweremadu, 2012, p. 8). This is partly because the agency also provides political utility to ruling elites as a means of garnering goodwill among the electorate with whom anti-corruption signalling is important in a high-corruption society, as well as serving as a tool for harassing political opponents (Enweremadu, 2012, p. 76). As a result, despite the limited impact on corruption in Nigeria since 2005, the EFCC "has ... established itself as an agency with high levels of forensic capacity to lead investigations" (Onyeama et al., 2018, p. 5). The agency is also "larger and better funded" than other anti-corruption agencies, enjoys "statutory and political pre-eminence" over them (Page, 2021, p. 9), and has a "higher tolerance for political risk" (Page, 2021, p. 10). It has in fact come to be seen by most Nigerians as the most effective anti-corruption agency in

the country, above the police force (UNODC 2019).

It has been noted that due to a lack of trust in the civil justice system, and despite several judicial reprimands, there are “instances where essentially civil matters have been brought before the EFCC because petitioners and their legal advisers give the complaint a criminal interpretation so as to bring it within the jurisdiction of the EFCC.” (Onyeama et al., 2018, p. 28). While others have focused on the occurrence of this phenomenon among private actors, it is also observable among industrial policy agencies, most commonly with respect to recoveries of development loans, but also in areas of trade policy enforcement, local content policy enforcement, and enforcement of infrastructure contracts.

### *3.1 Evidence from News Reports*

News reports patchily map out the EFCC’s involvement with industrial policy, often at the invitation of implementing agencies. For instance, the Bank of Industry (BOI), in 2018 resolved to work with the EFCC to recover loans given to defaulting farmers, given the limitations of using private debt collectors (Dada, 2018). The anti-corruption agency reportedly helped recover N297 million for the Bank of Agriculture in Kaduna and Kebbi states under the Central Bank of Nigeria’s Anchor Borrowers Programme (Jeremiah, 2018). The Nigerian Export-Import Bank (NEXIM), facing a 72% non-performing loan rate, in 2010 invited debt collection agencies, as well as the EFCC to help it recover N4.5 billion considered to “have a criminal element”, out of N14.6 billion owed by export-oriented companies and individuals (Onwuemenyi, 2010). It had allegedly recovered N450 million out of the N4.5 billion (Onwuemenyi, 2010).

The Nigerian Content Development and Monitoring Board (NCDMB) also involved the EFCC in a few cases. In 2018 the executive secretary of the NCDMB had indicated that the Board “needs more support on the investigative side of our activities and the expertise of EFCC” (Asu, 2018). Consequently, both agencies collaborated in 2019 to address companies in the upstream oil sector which failed to make the statutory remittances to the Nigerian Content Development Fund (The Nation 2019). The NCDMB also threatened to hand over to the EFCC defaulting beneficiaries of the Nigerian Content Intervention Fund (NCIF) in the oil and gas industry which received funds for capacity building (Obi 2019). At a two-day workshop held by the NCDMB for law enforcement agencies in 2020, the Director of Monitoring and Evaluation noted that the pioneers of the NOGICD Act “focused on building consensus and collaboration with stakeholders... The issue of securing conviction against noncompliance was not the priority at that time” (NCDMB, 2020). At the same event, a former inspector-general of police noted legislative and administrative gaps which would hamper successful prosecution and conviction of companies which failed to comply with local content requirements in the oil and gas sector (Olayinka, 2020). He proposed that the NCDMB build a small team of experts, “with competences in investigation and identification of ingredients critical for proving cases of noncompliance”, and that officers from the EFCC, among others be part of the team and trained on Nigerian content policy.

With regard to trade policy enforcement, the Senate Joint Committee on Customs, Excise and Tariff;

and Marine Transport, which investigated the alleged N30 trillion revenue leakages in the import and export value chain, noted that companies found culpable of corruption would be referred to the EFCC (Baiyewu, 2017). The chairman warned that “most of these companies, which have applied and gotten approval as manufacturers or assemblers of various products, but import finished goods in the name of CKD, will be charged with economic crime” (Baiyewu, 2017). There was however no further news about the outcomes of such threats. The Central Bank of Nigeria (CBN) has also involved the EFCC in the enforcement of its *de facto* import ban. When the CBN established its list of 41 banned items as part of its forex management and import substitution strategy, the central bank governor disclosed that, in addition to other sanctions, the CBN’s economic intelligence and banking supervision departments would work closely with the EFCC “to expose and sanction any bank, any company or its directors, or FX operator that colludes with unscrupulous individuals or companies to undermine the policy on 41 items. The prohibition and sanction shall be extended to smugglers of banned items” (Ohwovoriole, 2018). There are also news reports that the Presidency ordered anti-graft bodies, security agencies and intelligence agencies to halt the illegal rice smuggling business (Economic Confidential, 2019).

In 2018, the EFCC also sought a greater role in reducing the incidence of abandoned infrastructure contracts in the country. The Niger Delta Development Commission (NDDC) came under fire for revelations of a legacy of abandoned projects. The EFCC thus commenced investigation into abandoned projects awarded by the NDDC in the South-South zone (Ukpong 2018) and in three states in the Northwest zone (Kebbi, Sokoto, & Zamfara) (This Day, 2020). The EFCC acting chairman in 2018 had said that a Project Monitoring Team would be established to partner with civil society organizations to monitor the award of contracts by the NDDC and execution of the projects (Ukpong 2018). A House of Representatives *ad hoc* committee investigating the NDDC’s many abandoned projects in 2019 vowed to drag defaulting contractors before the EFCC to ensure thorough investigation and prosecution (Daily Times 2019). In 2018, the EFCC even expressed desire for more properly bringing infrastructure project abandonment into its policy domain by expressing the need for legislation to criminalize it as a means of strengthening deterrence (Onyekwere, Jimoh, & Godwin, 2018).

Without intensive investigative journalism and more in-depth empirical analysis, it is unclear how effective the EFCC’s interventions into these industrial policy domains have been. Theoretically speaking, it could be mere publicity. Agencies may simply be inviting the EFCC as a means to outwardly show that it is doing something to be more effective, while operationally limiting the EFCC’s actual involvement. In other words, it could be acts of organizational hypocrisy. Similarly, the EFCC may offer statements of intended investigation or cooperation without much action.

Yet there are a few examples to indicate some success of even the threat of anti-corruption investigation in some cases. As mentioned earlier, it was reported that the EFCC helped recover N297 million for the Bank of Agriculture in Kaduna and Kebbi states under the Central Bank of Nigeria’s Anchor Borrowers Programme (Jeremiah, 2018). In 2018 it was reported that the minority leader of the House of

Representatives “hurriedly mobilised contractors to sites of various uncompleted projects in his constituency” due to fear of EFCC investigation and prosecution (Sahara Reporters, 2018). In a 2020 case, infrastructure projects worth N305 million in Kebbi State were abandoned by the contractor after receiving some percentage of the contract sum. When the EFCC began investigation following a whistle-blower complaint, the EFCC “compelled the contractor to return to site to complete both projects” (Odunsi, 2020). A similar case occurred in Niger State when a company abandoned a road construction project (awarded in 2012) after being paid 24% of the 1.24 billion naira contract sum (EFCC 2020). After being petitioned by the Rijau Community Youth Forum, the company was “compelled” by the EFCC in 2020 to finish the work. This intervention reportedly raised the level of completion from 7% to 60% as of April 2020 (EFCC 2020). The EFCC had also reached a performance evaluation agreement with the contractor and the Federal Ministry of Works whereby the contractor reports monthly to the EFCC and the ministry gives a monthly evaluation report. The EFCC acknowledged this intervention as a “laudable novelty”, urging “other relevant agencies and communities to emulate such synergy” between the EFCC, awarding agencies and the communities in which projects are located (EFCC, 2020).

It is observable that in all these cases, it has been recipients of industrial policy support which have been the focus of investigation, rather than officials within the industrial policy implementing agencies. Conditional on these not being cases of organizational hypocrisy, this reveals that this is a demand-led phenomenon, involving cases whereby the industrial policy implementing agencies seem to perceive the problem to lie with the recipients rather than in their own processes of monitoring and sanctioning – or, perhaps, processes of monitoring and sanctioning under past leadership.

In addition to invitations from implementing agencies, those at the top echelons of power seem have also called on the EFCC, from a president (Pindiga & Edet, 2009), to state governments (Muhammad, 2016). Several industrial policy institutions have seemed to deem the EFCC to be a key agency to call in the case of industrial loan defaults, or to threaten defaulters in the hope of scaring them into complying when they heard that the EFCC would be involved. Yet it is difficult to ascertain to what extent the rhetorical invocation of the EFCCs’ involvement is mere verbal threat or the extent to which the news reports exaggerate the EFCC’s involvement and success.

Interestingly, the EFCC has subtly indicated interest in broader development in a few cases. When the Asset Management Corporation of Nigeria (AMCON) requested help from the EFCC to recover N5 trillion debts, the EFCC’s acting spokesman noted that “we will render assistance in terms of enforcement...because they [the debtors] are affecting the economy of the country from flourishing” (Mutum, 2019). On another occasion the EFCC chairman “regretted that the country is losing huge revenues, foreign exchange and jobs as local rice processing companies are shutting down because of their inability to gain market access” (Economic Confidential 2019). Similarly, it has “expressed desire for local content practice to be extended to other important sectors of Nigerian economy” (Asu, 2018), and in another context has noted that “it is in the nation’s economic interest to assist BAT as the

company has helped in creating jobs and boosting government revenue earnings” (Baba, 2014). When the Nigerian Embassy in Berlin sought government agencies to speak to investors in Germany as part of efforts to boost investments, agencies invited were the CBN, NEXIM and EFCC (Onwuemenyi, 2010).

The EFCC has thus been taken as a *de facto ex post* industrial policy enforcement agency in some areas. The breadth, depth, form and impact of such involvements require further investigation. This, however, appears to be largely limited to *ex post* enforcement of rent repayments rather than to directly enforcing the economic performance of rent recipients. Yet it is possible that enforcement of rent repayments or threats of involving the EFCC indirectly act as a disincentive against unproductive use of rents. Moreover, this seems to be on an *ad hoc* basis, with only few proposals for an institutionalization of the EFCC’s involvement in industrial policy monitoring and evaluation detectable only in the cases of local content policy and infrastructure projects enforcement. This is a key point. The literature on mission creep highlights the role of ideas and agency in institutional entrepreneurship – one cannot work without the other. While the EFCC’s leadership has expressed desire for laws on infrastructure contracts and local content development, it does not seem to have intensively pursued these interests. Additionally, despite the expression of national economic interests by the EFCC leadership, the fact that it is through petitions that the EFCC has explored specific industrial policy domains means that it is not driving ideas in this area, signifying a lack of ideational and bureaucratic entrepreneurship in this regard.

### 3.2 Quantitative Analysis

While the phenomenon described in this paper was first identified by chance, there may be a way to more objectively identify other cases or other potential cases, hence increasing the generalizability of the argument. The first step is to measure the tripartite capacity gap. The Implementing Agency Capacity Gap (IACG) is measured by the product of two variables from ESID’s Political Settlements Dataset (*PolSett*) (Schulzd & Kelsall, 2020) – Government’s economic development prioritization (EDP) and Power Concentration Index (PCI). The Anti-Corruption Agency and Court System Capacity Gap (ACACSCG) is measured by the ratio between an Anti-Corruption Agency capacity score and a court system capacity score. The latter is measured using the “Civil justice is effectively enforced” score (CJS) from the World Justice Project’s (2020) Rule of Law Index. The Anti-Corruption Agency capacity score is measured by an additive score for whether the ACA had budget autonomy (Budget Autonomy Score [BAS]: 1 = yes and 0 = no), and what its functions are (Function Score [FS]: 1 point for each function – policy, prevention, investigation and prosecution). ACA budget autonomy and function data are derived from the World Bank’s (2020) Anti-Corruption Authorities database.

The ACACSCG is then divided by the country’s score on the Transparency International’s (2020) Corruption Perceptions Index (CPI) for the year 2001 (around which many anti-corruption agencies were created in response to high levels of corruption) in order to get the national corruption capacity gap. The “composite capacity gap” (CCG) is derived simply by multiplying the three capacity gaps:

$$CCG = \frac{ACACSCG/CPI}{IACG}$$

Where:

$$\frac{\partial CCG}{\partial(ACACSCG)} > 0, \frac{\partial CCG}{\partial CJS} < 0, \frac{\partial CCG}{\partial CPI} < 0, \frac{\partial CCG}{\partial(IACG)} < 0$$

The absolute values on their own are meaningless; it is the ranking of countries based on these values that provides the basis for potentially meaningful inference.

**Table 1. Capacity Gap Scores**

Country	BAS	FS	A+F	(A+F)/CJS	CPI	1/(CPI	AFCJ	EDP	PCI	EDP*PCI	CCG
					2001	2001)	/CPI2001				
Bangladesh	1	4	5	13.52	0.40	2.50	33.79	4.24	0.27	1.15	<b>29.48</b>
Nigeria	1	4	5	11.76	1.00	1.00	11.76	3.39	0.36	1.23	<b>9.59</b>
Pakistan	0	4	4	14.35	2.30	0.43	6.24	3.75	0.42	1.58	<b>3.94</b>
Philippines	1	3	4	9.40	2.90	0.34	3.24	3.48	0.29	1.00	<b>3.24</b>
Uganda	1	3	4	8.64	1.90	0.53	4.55	3.68	0.43	1.57	<b>2.90</b>
Kenya	0	3	3	6.42	2.00	0.50	3.21	3.26	0.36	1.18	<b>2.72</b>
Cameroon	1	2	3	8.88	2.00	0.50	4.44	3.63	0.56	2.03	<b>2.19</b>
India	0	3	3	7.77	2.70	0.37	2.88	3.92	0.34	1.33	<b>2.17</b>
Indonesia	0	3	3	7.63	1.90	0.53	4.02	4.05	0.48	1.93	<b>2.08</b>
Tanzania	0	3	3	5.89	2.20	0.45	2.68	3.48	0.45	1.58	<b>1.70</b>
Guatemala	0	1	1	3.22	2.90	0.34	1.11	3.20	0.30	0.97	<b>1.15</b>
Ghana	0	2	2	3.10	3.40	0.29	0.91	4.14	0.23	0.95	<b>0.96</b>
Zambia	0	3	3	4.55	2.60	0.38	1.75	3.82	0.50	1.91	<b>0.92</b>
Senegal	0	2	2	3.34	2.90	0.34	1.15	3.55	0.42	1.51	<b>0.76</b>
Republic of Korea	0	3	3	3.63	4.20	0.24	0.86	4.23	0.44	1.85	<b>0.47</b>
Estonia	0	2	2	2.90	5.60	0.18	0.52	3.98	0.47	1.87	<b>0.28</b>
South Africa	0	1	1	1.67	4.80	0.21	0.35	3.66	0.55	2.00	<b>0.17</b>

Bangladesh (29.5), Nigeria (9.6), Pakistan (3.9), Philippines (3.2) and Uganda (2.9) emerge as the top-ranking countries out of the 17 developing countries for which all data are available. Bangladesh and, to a lesser extent, Nigeria, seem to have far greater composite capacity gaps than the other three countries, which may or may not make them the outliers for which the phenomenon exists. Indeed, as with Nigeria in 1999, Bangladesh was listed as the most corrupt country on the Corruption Perceptions

Index from 2001 to 2005 (Yi, 2015, p. 287), while both have the only 5-point ACA budget autonomy plus function score. The fact that Nigeria ranks second and the mission creep phenomenon has been identified for it improves confidence that the measure is not entirely spurious. This ranking helps narrow the list of countries for case selection and for which to conduct a survey of the literature, and investigation of news reports and exploratory surveys and interviews administered to key elites. These methods will aid in identifying possible cases of ACA function creep into industry policy enforcement. Unfortunately, the rarity of research the phenomenon and cross-country variation in media publicity of ACA investigations produces the same problem as observed in Nigeria: that there is little academic research and identification in news reports is limited by the media exposure of national ACAs. This leaves the bulk of investigation to be directed at obtaining qualitative data from stakeholders in ACAs and industrial policy implementation agencies.

The CCG measure, however, is only a starting point. First, further research requires a more direct measure of the Implementing Agency Capacity Gap (IACG). This could be achieved directly, through elite surveys conducted with industrial policy officials and researchers or, a revealed measure, by observing the gap between the priority given to industrial policies by a ruling coalition (measured by an index of funding and protection given to key industries) and economic outcomes for those industries (measured, for instance, by annual industry output growth rates relative to the industry's global growth rate). Such a measure would allow the inclusion of a larger number of countries in the dataset since several countries at the bottom of corruption rankings do not appear in the *PolSett* dataset. Secondly, prosecution capacity may supplement the measure of anti-corruption agency capacity, for instance by conducting a cross-country regression of annual prosecution numbers against country population size, the average Corruption Perceptions Index, and the budget autonomy and function scores of the ACA. The anti-corruption agency capacity may then be additionally measured as the difference between the country's estimated prosecution rate derived from the regression model, and the actual prosecution rate. Perhaps additional surveys would need to be conducted to identify the prosecution rates, budget autonomy levels and ACA functions of the developing countries not present in the Anti-Corruption Authorities database which does not include many developing countries.

#### **4. Discussion and Conclusion**

It is conceivable that the EFCC does not get more invitations, or even more rigorous involvement, because doing so would expose bureaucrats within the inviting/involved agencies of the malpractices and corruption that they engage in. Therefore, if the EFCC is actually effective in improving industrial policy enforcement, it might need exogenous imposition – from legislators and citizen petitioners – upon the relevant implementation agencies to be more closely involved, rather than petitions from them. If indeed more intensive research reveal a positive and statistically significant “EFCC treatment effect” on industrial policy enforcement effectiveness, then this could be grounds for expanding budgetary and personnel allocation to the agency, just as the Bank of Industry (BOI) seems to have controversially

achieved (Ohwovoriole, 2017). This is to enable its institutionalized participation in industrial policy enforcement alongside primary implementing agencies. Additionally, the results could prove beneficial to countries which experience high levels of corruption both generally and within industrial policy implementation, and which may have an anti-corruption agency. Nonetheless, this is not a magic bullet, and must be complemented by many other innovations to bureaucracies and political settlements.

In addition, the variation in capitalists' technological capabilities for learning for productivity means that simply making threats, no matter how credible, of corruption investigation and prosecution is insufficient. This must be complemented by efforts to improve the organizational and technological capabilities of capitalists, which is difficult since the industrial policy support itself, which gets rent-captured, is partly supposed to improve such capabilities. Perhaps EFCC involvement is merely meant to filter out firms which seek industrial policy support simply to siphon off rents.

Quantitative and qualitative research into the identified phenomenon would need to undertake in-depth interviews with key informants, with the starting points for reference being the cases reported in news reports. It would also be necessary to conduct analyses of official documents and inter-agency seminar/workshop outcomes, among agencies such as the Ministry of Investment, Trade and Industry, the BOI, Ministry of Agriculture and Rural Development, the BOA, NCDMB and its allied agencies, the NDDC, the Ministry of Power and Works, the Central Bank of Nigeria, Nigerian Customs Services, Ministry of Finance, and the Secretary General of the Federation who is involved in coordinating activities among the agencies.

The research must also explore state-level variation in EFCC involvement. An area that has escaped the development literature is the historical importance of local developmental states in driving local development and thus contributing to national development (Bateman, 2017). The Nigerian development literature has focused on federal initiatives and institutions, but there is some variation in bureaucratic capacity and political settlements across states. Whereas the Nigerian federal government and the majority of states rely predominantly on oil revenues, Lagos State enjoys the largest share of internally-generated revenues in Nigeria (30%) (Taxaide, 2020) hosts the largest share of MSMEs and industries in Nigeria and accounts for the majority of the nation's industrial investments, foreign trade and commercial activities. Its politics is also much less ethno-religiously fragmented than federal politics. Preliminary indications are that its industrial policy and tax institutions have therefore been more effective and more responsive to commercial and capitalist actors than their federal counterparts (Page and Okeke 2019 12). Therefore, investigating the driver of EFCC state variation in industrial policy enforcement involvement would be an interesting avenue for research.

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