

# AGENTS OF

CHANGE

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## A LOOK AT ANTI-CORRUPTION AGENCIES IN AFRICA AND WHAT MORE NEEDS TO BE DONE

Over the past 20 years or so, Africa has seen an exponential growth in anti-corruption agencies as governments across the continent seek to fight what's still considered to be an endemic problem. Here we look at the history behind ACAs, some case studies and how CFEs can assist in these efforts.



**L**ate last year, Nigeria's anti-graft agency, the Economic and Financial Crimes Commission (EFCC), began to prepare the sale of assets that Diezani Alison-Madueke, the former president of the Organization of the Petroleum Exporting Countries (OPEC), had bought allegedly through ill-gotten gains.

This list of items on the selling block, which included a 90-carat, emerald-cut diamond worth \$10.6 million and a sapphire-studded bra valued at \$12.5 million, drew comparisons with Imelda Marcos, the former first lady of the Philippines who used state money to fund a lavish lifestyle, and is mostly remembered for her collection of 30,000 pairs of shoes.

It also heightened frustrations among Nigerians already accustomed to corruption in a nation where despite its oil riches, 40% of the population, or close to 83 million, live in poverty. (See "Nigeria releases new report on poverty and inequality in country," The World Bank, May 28, 2020, [tinyurl.com/3phcuptp3](http://tinyurl.com/3phcuptp3), and "FG auction Diezani's bras, other property," chronicle, Oct. 27, 2021, [tinyurl.com/t5e3xa92](http://tinyurl.com/t5e3xa92).)

In all, the EFCC has reportedly recovered \$153 million from properties and other possessions owned by Alison-Madueke, who's yet to be brought to justice in her own country after being accused of bribery and laundering billions of dollars during her tenure as Nigeria's oil minister under former president Goodluck Jonathan. (See "Bawa: EFCC Recovered \$153m, 80 Properties from Diezani Alison Madueke," by Kingsley Nwezeh, This Day, May 12, 2021, [tinyurl.com/ne357m9d](http://tinyurl.com/ne357m9d).)

Alison-Madueke's alleged plundering of the state's coffers is just one of hundreds of high-profile fraud and corruption cases in Nigeria, many of which have yet to be resolved. [See "A Compendium of 100 High Profile Corruption Cases in Nigeria, Human and Environmental Development Agenda (HEDA) Resource Centre, Nov. 22, 2020, [tinyurl.com/57zad5et](http://tinyurl.com/57zad5et).]

"The impressive work done by EFCC notwithstanding, endemic corruption still persists in Nigeria," says Ishili Emmanuel, CFE, CFI, president and CEO of the ACFE's Abuja Chapter in Nigeria. He points out that the country ranked 149 out of 183 countries on the Transparency International (TI) 2020 Corruption Perceptions Index (CPI). (See "Corruption Perceptions Index," 2020, [tinyurl.com/8ef3784p](http://tinyurl.com/8ef3784p).)

## ACAS AND THE FIGHT AGAINST CORRUPTION

And Nigeria is hardly unique. African countries have diverse historical backgrounds, geographical features, cultural landscapes, political settings, climatic conditions, linguistic competences, public administrative processes and economic circumstances. But many suffer from one common affliction, albeit with varying degrees of intensity, and that's corruption.

Crimes related to corruption such as those allegedly perpetrated by Alison-Madueke have been a real problem in many African countries, and presidents have regularly been swept in and out of office on promises and failures to tackle widespread graft as voters express their anger at systems that often benefit the unscrupulous few at the expense of the rest of the population.

Efforts to tackle this affliction have gathered momentum over the past 20 years or so, and the region has seen the creation of a growing number of anti-corruption agencies (ACAs), such as the EFCC, which was set up in 2002 after the Financial Action Task Force, a Paris-based terrorist financing watchdog, urged Nigeria to do more about money laundering, eliminate excessive bank secrecy and cooperate more with other countries on this front. (See "Financial Action Task Force on Money Laundering, Annual Report, 2001-2002," June 21, 2002, [tinyurl.com/43j4k9et](http://tinyurl.com/43j4k9et).)

Starting in 2003, 140 countries signed the United Nations Convention against Corruption, which is the only universal legally binding anti-corruption treaty. During the early 2000s, many African nations also drew up anti-corruption legislation and in turn established ACAs, which now number over 50 across the continent. (See table in online version.) Such organizations are important in sub-Saharan Africa, where corruption is by far the most common occupational fraud, according to the ACFE's 2020 *Report to the Nations: Sub-Saharan Africa Edition*. (See [ACFE.com/RTTN](http://ACFE.com/RTTN) and "United Nations Convention against Corruption," United Nations Office on Drugs and Crime, [tinyurl.com/c4rspuf4](http://tinyurl.com/c4rspuf4).)

## FALLING SHORT

Yet despite the growing numbers of ACAs in Africa, many have fallen short of their initial aspirations, igniting a debate about how best to tackle this



multi-faceted problem. Some ACAs have been set up without proper strategies or have copied successful structures elsewhere in the world without addressing a country's unique circumstances. (See "Anti-Corruption Agencies – Can Anti-Corruption Agencies be Successful in Combating Corruption?" Chapter 11 from The World Bank report on the fight against corruption, 2020, [tinyurl.com/398szv7y](http://tinyurl.com/398szv7y).)

African nations have adopted a whole string of anti-corruption protocols and agreements over the years to combat corruption. Yet while many countries have criminalized various forms of corruption, such as money laundering, illicit enrichment and political party funding and set up laws to prosecute offenders, there are still gaps, and enforcement can be lagging for a variety of reasons. Those with political influence and power often get away with crimes in a system that still lacks transparency. (See "Implementing and Enforcing the African Union Convention on Preventing and Combating Corruption," TI, 2020, [tinyurl.com/2f3ynduw](http://tinyurl.com/2f3ynduw), and "Sub-Saharan Africa: Overview of corruption and anti-corruption, CMI, U4 Anti-Corruption Resource Centre, March 20, 2020, [tinyurl.com/v2ssy4xc](http://tinyurl.com/v2ssy4xc).)

These problems are reflected in the statistics. Sub-Saharan Africa, for instance, was the lowest performing region on TI's 2020 Corruption Perceptions Index, with an average score of 32. According to the United Nations Conference on Trade and Development (UNCTAD), the region loses \$88.6 billion in illicit capital flight every year. This not only stunts economic growth but does untold damage to a region where people regularly pay bribes just to access public health services. (See "CPI 2020: Sub-Saharan Africa, TI, Jan. 28, 2021, [tinyurl.com/2bhthc72](http://tinyurl.com/2bhthc72), and "Tackling Illicit Financial Flows for Sustainable Development in Africa," UNCTAD, 2020, [tinyurl.com/undxv6jp](http://tinyurl.com/undxv6jp).)

Those findings reinforce the current discourse about corruption and its ill-effects on the African continent as a whole and more specifically in the sub-Saharan countries. To build upon the information in the *Report to the Nations* and elsewhere, it's worthwhile looking at some of the challenges and successes that ACAs have had in Africa.

At their inception, ACAs garnered the support of global multilaterals and were seen as an effective

way to fight fraud and corruption as well as promote good governance. ACAs have effected some high-profile arrests and have made headway in tackling corruption, but they've sometimes clashed with law enforcement and lost the political independence they were originally designed to have. Interagency rivalry is also potentially a problem. Nigeria, for example, has two anti-corruption agencies, the EFCC and the Independent Corrupt Practices Commission (ICPC). (See "African anti-corruption agencies and the problem of independence," by Gerhard Anders, Global Integrity, Nov 26, 2019, [tinyurl.com/j52ceu9p](http://tinyurl.com/j52ceu9p).)

## CALLS FOR CHANGE

Calls for change are getting louder amid frustration that anti-corruption agencies and the laws that back them fail to turn the tide. Nuhu Ribadu, the EFCC's first chairman, and other former government officials want to see the creation of an International Anti-Corruption Court, which will be able to prosecute kleptocrats. (See "Ribadu, 100 other world figures call for International Anti-Corruption Court," by Kunle Sanni, Premium Times, June 13, 2021, [tinyurl.com/yzh4cyb5](http://tinyurl.com/yzh4cyb5).)

Africans are also growing tired of corruption and greed that results in a lower quality of life for the vast majority of the population. This frustration was on display in South Africa's municipal elections in early November 2021 when the African National Congress (ANC), the party that has ruled the country since the collapse of the apartheid regime, for the first time garnered less than 50% of the national vote.

Despite several successes in the fight against corruption and fraud by former public protector and ACFE 2021 Cressey Award winner Thuli Madonsela, many South Africans think the long-standing ANC government hasn't done enough to stanch widespread graft. (See "South Africa's ANC registers worst ever electoral performance," by Joseph Cotterill, Financial Times, Nov. 3, 2021, [tinyurl.com/4h6yy4n8](http://tinyurl.com/4h6yy4n8); "ANC fails to stop the corruption train – 32 major scandals, four in 2021 alone," by Ferial Haffaje, Daily Maverick, Oct. 7, 2021, [tinyurl.com/pc3cy9vb](http://tinyurl.com/pc3cy9vb); and "State of capture," by Paul Kilby, *Fraud Magazine*, July/August 2021, [tinyurl.com/s3ufzs](http://tinyurl.com/s3ufzs).)

Nigeria's President Muhammadu Buhari, who was reelected in 2019 and originally came to power



in 2015 on an anti-corruption platform, is also under pressure to do more. Early last year, the president appointed Abdulrasheed Bawa as the new chairman of the EFCC. The 40-year-old is a CFE and the youngest person to hold that position. He's promised to run an independent agency but work in cooperation with the country's attorney general to bring high-profile corruption suspects like Alison-Madueke back to Nigeria to stand trial. Failure to do so has frustrated many Nigerians, and Bawa has his work cut out for him as he looks to show that the EFCC can be an effective force against corruption. (See "10 things Nigerians expect from Bawa as EFCC chair, by Kunle Sanni, Premium Times, March 5, 2021, [tinyurl.com/4e6pprxu](https://tinyurl.com/4e6pprxu).)

### THE CASE OF ALISON-MADUEKE

Indeed, while the government is slowly recovering what's likely to be billions of dollars in illicit purchases, including a slew of properties, Alison-Madueke's case has yet to be resolved. Ever since the U.K. International Corruption Unit (within the National Crime Agency) temporarily arrested her in 2015 in London, the EFCC has been trying to extradite her back to Nigeria but to no avail. (See "Nigeria makes anti-corruption moves amid criticism over progress," by Neil Munchi, Financial Times, Jan. 28, 2020, [tinyurl.com/2ye6tywu](https://tinyurl.com/2ye6tywu); "EFCC fails to appear in court to report on Diezani Alison-Madueke's extradition," by Ediri Oyibo, TNG, [thenews-guru.com](https://thenews-guru.com), Nov. 3, 2021, [tinyurl.com/wyavj](https://tinyurl.com/wyavj); and "Absence of EFCC counsel stalls Diezani Alison-Madueke trial," by NNN, Nov. 3, 2021, [tinyurl.com/3x7fv7tv](https://tinyurl.com/3x7fv7tv).)

EFCC has charged Alison-Madueke with money laundering. But law enforcement agencies in Europe and the U.S. have been investigating her for diverting billions of dollars in petroleum sales, taking bribes in exchange for lucrative oil contracts and creating a slush fund to sway the 2015 presidential election while she was minister of petroleum resources under former president Goodluck Jonathan between 2010 and May 2015. She's denied all allegations. (See "Nigerian ex-oil minister charged with money laundering: crimes agency," by Reuters staff, April 6, 2017, [tinyurl.com/2vhnrfr](https://tinyurl.com/2vhnrfr), and "Asset Recovery Handbook, A Guide for Practitioners, Second Edition," World Bank Group, Stolen Asset Recovery Initiative, Box 5.1, 2021, page 138, [tinyurl.com/78dxk4e8](https://tinyurl.com/78dxk4e8).)

The case has garnered international attention, impacting countries like Italy, the U.S., and the U.K. where law enforcement has implicated Alison-Madueke, her

accomplices and former president Goodluck Jonathan in a variety of crimes. (See "Diezani battles slew of graft cases," by Ayodele, Punch, July 23, 2017, [tinyurl.com/3jd4a46r](https://tinyurl.com/3jd4a46r), and "Nigeria says ex-president and his oil minister took bribes: court filing," by Libby George, Reuters, May 10, 2019, [tinyurl.com/5d2e7aea](https://tinyurl.com/5d2e7aea).)

Alison-Madueke, who was also OPEC's first women president, received renewed scrutiny in 2021 when her name popped up in connection with the so-called Pandora Papers, the latest leak of documents from the International Consortium of Investigative Journalists (ICIJ) showing how the world's wealthiest individuals use offshore companies to their benefit. She's also been associated with earlier leaks in the Panama Papers. (See "ICIJ search results for Alison-Madueke," [tinyurl.com/2p8rdd3b](https://tinyurl.com/2p8rdd3b).)

Those offshore companies provided Alison-Madueke a stealthy means to receive bribes in the form of real estate when she oversaw Nigeria's oil industry, which brings in much of the country's export dollars. (See "Secret Trove Illuminates Lives of Billionaires," by Peter Whoriskey and Agustin Armendariz, The Washington Post, Oct. 6, 2021, [tinyurl.com/259z96by](https://tinyurl.com/259z96by), and "Department of Justice Seeks to Recover Over \$100 Million Obtained From Corruption in the Nigerian Oil Industry," U.S. Department of Justice, July 14, 2017, [tinyurl.com/y76fneuj](https://tinyurl.com/y76fneuj).)

### MEASURING SUCCESS

Measuring the success of anti-corruption agencies can be difficult amid what appears to be a sea of wrongdoing. Even so, African countries have been making some headway, despite the challenges. Here's the state of play in a few countries and some of the challenges ACAs face.

#### Nigeria

Nigeria makes for an interesting case study given its substantial wealth — at \$514 billion its economy is the largest on the African continent — and its poor standing on corruption indices. Like other countries, anti-corruption agencies in Nigeria can lack independence and are impacted by changes in the political landscape. In turn, there's been little consensus on the usefulness of the EFCC and ICPC's battle against corruption in Nigeria.

"One side would argue that the fight is one-sided, a tool of the government in power for fighting its critics and the opposition," says Emmanuel. "A flip side



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would counter that the anti-corruption agencies are doing excellently, that only the corrupt and their allies have quarrels with its methods."

The career path of Ibrahim Magu, the former acting chairman of the EFCC, helps illustrate why these mixed views come about. Emmanuel credits him with invigorating the campaign against corruption in Nigeria. During Magu's tenure from 2015 through 2020, the agency made a number of arrests, recovered ill-gotten assets and cooperated with the FBI in the operation to catch cybercriminals known as the "Yahoo Boys." (See "167 arrested, \$169,850 recovered in EFCC/FBI Operation Rewired," by Oladimeji Ramon, *Punch*, Sept. 11, 2019, [tinyurl.com/34u846e3](http://tinyurl.com/34u846e3), and "2018 mid-year convictions of EFCC and ICPC," *Transpar-encIT*, Oct. 22, 2018, [tinyurl.com/227cfdr](http://tinyurl.com/227cfdr).)

But in 2020, Magu was suspended from his position after being accused of fraud. He's not the first head of the anti-graft agency to succumb to a similar fate, and a group of international anti-corruption campaigners rushed to his defense saying the investigation was flawed and biased. (See "Nigeria's EFCC boss suspended from office following secret tribunal," by Oluwatosin Adeshokan, the *africa report*, July 17, 2020, [tinyurl.com/352y4u3x](http://tinyurl.com/352y4u3x), and "International groups write Buhari, say Magu not likely to get justice," *Premium Times*, Nov. 15, 2020, [tinyurl.com/aabrb4nb](http://tinyurl.com/aabrb4nb).)

In addition to those leadership changes, the EFCC has suffered from inadequate funding and a lack of qualified experts in forensic investigation, equipment and staffing, says Emmanuel. (See "Lack of forensic experts, licences stall 140 EFCC cases," by Adelani Adepegba, Nov. 2, 2021, [tinyurl.com/ch2338e6](http://tinyurl.com/ch2338e6).)

Emmanuel says that passage of the Police Act 2020, Section 4(i), which allows police to approve private detective



schools and private investigation firms, will help fill that void. Emmanuel points to these following recommendations from legal experts and others in law enforcement to help the EFCC in its fight against corruption.

**Special court** — A special court to try EFCC cases would help bypass the unnecessary delays and adjournments typical of other courts, allowing for a speedier conclusion to trials related to corruption and financial crimes. (South Africa recently set up a similar court — see page 19.)

**Assets forfeiture law** — An assets forfeiture law, if promulgated by the National Assembly, would allow the EFCC to seize assets of those suspected of corruption and financial crimes. By doing this before a possible conviction, law enforcement could prevent suspects from mobilizing resources to influence results of lawsuits in court.

**Financial support** — Government should increase EFCC's budget given the high cost of investigations and prosecution. International bodies and governments can support by making donations



in the form of equipment and training to help the fight against corruption and economic crimes.

**Training employees of the commission** — The staff of the anti-graft agencies, including investigators and prosecutors, should be properly trained in the latest techniques of investigation and prosecution.

#### **South Africa**

In South Africa, President Cyril Ramaphosa has had to pick up the pieces left by his predecessor Jacob Zuma, who faces

corruption charges over a \$2.5 billion arms deal and briefly went to prison last year for contempt of court after refusing to appear before a commission investigating corruption during his time in office. Ramaphosa, whose party suffered a historic loss during municipal elections in November, has vowed to fight corruption and fraud, which he says are still widely entrenched. (See “The end of an era for South Africa: Ramaphosa,” Business Tech, Aug. 16, 2021, [tinyurl.com/3k5s7m7z](https://tinyurl.com/3k5s7m7z), and “Overview of South Africa’s Anti-Corruption Landscape, State Capture, and Recent Civil Unrest,”

Ropes & Gray, Aug. 6, 2021, [tinyurl.com/d2tafeb4](https://tinyurl.com/d2tafeb4).)

During his time in office, Ramaphosa has taken several steps to strengthen ACAs’ abilities to attack corruption. He’s set up the Investigating Directorate within the National Prosecuting Authority to focus on high-profile corruption cases that emerged during Zuma’s years in office. However, the move has come under criticism for creating yet another anti-corruption agency that overlaps its duties with other law enforcement bodies, and one that’s too underfunded to carry out big investigations. (See “Does the NPA’s Investigating Directorate have the firepower to take on the big fish?,” Jessica Bezuidenhout, Daily Maverick, July 31, 2021, [tinyurl.com/9fp2v73x](https://tinyurl.com/9fp2v73x), and “Lack of skills, manpower hampering NPA and Hawks with its 20 000 caseloads, Scopa hears,” by Nicole McCain, News24, July 6, 2021, [tinyurl.com/pydanbda](https://tinyurl.com/pydanbda).)

Meanwhile, the Special Investigating Unit (SIU), another anti-corruption agency tasked with the recovery of ill-gotten assets, also hopes to enjoy a greater success rate after the government gave it some extra teeth to enforce prosecutions and recover stolen assets through a Special Tribunal rather than through more lengthy civil proceedings. (See “Ramaphosa announces SIU Special Tribunal to fast-track recovery of state funds,” by Sarah Evans, News24, Feb. 24, 2019, [tinyurl.com/ed8m2w](https://tinyurl.com/ed8m2w), and “SIU lauds Special Tribunal in fight against corruption,” South African Government News, Dec. 10, 2020, [tinyurl.com/marhrhmkk](https://tinyurl.com/marhrhmkk).)

The SIU has used the Special Tribunal to tackle a spate of suspected frauds involving personal protective gear valued in the billions of rand. According to the SIU 2020-2021 annual report, it has put 40 cases before the Special Tribunal to declare certain PPE contracts invalid and recover



Winning, Reuters, Dec. 11, 2020, [tinyurl.com/ykfkykj6](http://tinyurl.com/ykfkykj6).)

### Tanzania

Just as she was taking over as the new president last year, Samia Suluhu Hassan ordered the suspension of the director of the country's port authority after the disappearance of around \$1.56 million and asked the country's ACA to conduct audits of funds dispersed to development projects. (See "Tanzania's Hassan suspends ports chief, continuing Magufuli's anti-graft stance," Reuters, March 28, 2021, [tinyurl.com/a36xt268](http://tinyurl.com/a36xt268), and "John Magufuli: Tanzania's 'bulldozer' president," BBC, March 17, [tinyurl.com/dt38z8wj](http://tinyurl.com/dt38z8wj).)

The move was seen as a continuation of policies set by Hassan's predecessor John Magufuli, who died at age 61 last year. While Magufuli has been accused of authoritarianism and courted controversy with his handling of the COVID-19 pandemic, he also earned a reputation as a no-nonsense corruption fighter. Indeed, Tanzania — along with Angola, Ivory Coast, Ethiopia and Senegal — is one of several African countries that have seen significant improvements on the corruption front, according to TI. (See "CPI 2020: Sub-Saharan Africa," TI, [tinyurl.com/2bhthc72](http://tinyurl.com/2bhthc72).)

During his first nine months in government, Magufuli (2015-2021) wasted little time in tackling corruption. He gave a seven-day ultimatum to businessmen suspected of tax evasion, purged over 10,000 ghost workers from the public payroll and sacked the head of the Prevention and Combating of Corruption Bureau (PCCB) for his slow pace in pursuing corruption cases. Even so, trust in institutions such as the PCCB have become an issue, and the new president has recently appointed a new head to run the anti-graft agency. (See "New DPP, PCCB bosses face task to restore trust," by Jacob Mosenda, The Citizen, May 20, 2021, [tinyurl.com/294csbkp](http://tinyurl.com/294csbkp);

those financial losses. As in other parts of the world, Africa has seen a spike in corruption and fraud associated with public procurement and the misappropriation of emergency funds during the COVID-19 pandemic. The South African government also created what it called a "fusion centre" bringing together the SIU and other law enforcement agencies to help better tackle the uptick in fraudulent activity during the COVID-19 pandemic. (See "SA Government to establish 'fusion centre' to deal with corruption," by Carien du Plessis, Daily Maverick, Aug. 7, 2020, [tinyurl.com/2tdxj6u9](http://tinyurl.com/2tdxj6u9), and "Corruption Risks in Southern Africa's Response to the Coronavirus," TI, May 13, 2020, [tinyurl.com/rxtfmjdp](http://tinyurl.com/rxtfmjdp).)

As of March 31, 2021, the SIU had 64 cases before the Special Tribunal involving

contracts worth R6.99 billion and 56 cases before the High Court for contracts amounting to R62 billion. (See "SIU investigating PPE corruption worth R14.2bn," by Jan Gerber, news24, May 11, 2021, [tinyurl.com/x2z6d8a4](http://tinyurl.com/x2z6d8a4), and SIU Annual Report 2020-2021, [tinyurl.com/455u6hfk](http://tinyurl.com/455u6hfk).)

In December 2020, the SIU recovered more than R1.57 billion (\$104 million), its biggest recovery to date in a single investigation, after investigating ABB South Africa for overpayments for work carried out for debt-laden state power utility Eskom at its Kusile plant. The project is designed to help end regular power cuts that have plagued the country's households and industries. (See "ABB to pay \$104 million to settle South Africa power plant probe," by John Revill and Alexander

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"Tanzania says over 10,000 'ghost workers' purged from government payroll," by Fumbuka Ng'wanakilala, Reuters, May 16, 2016, [tinyurl.com/yxnpzazy](http://tinyurl.com/yxnpzazy); and "Tanzanian president sacks anti-graft chief," by Fumbuka Ng'wanakilala, Reuters, Dec. 16, 2015, [tinyurl.com/76cztnct](http://tinyurl.com/76cztnct).)

To fight corruption, Tanzania has complied with international norms by ratifying the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption. Tanzania also joined the Construction Sector Transparency Initiative to enhance accountability and transparency within the sector.

Tanzania possesses a comprehensive legal framework to counter corruption. The Prevention and Combating of Corruption Act criminalizes passive and active bribery and money laundering. Government officials must disclose their assets when they assume office as well as when they leave public office. The Public Services Act requires all institutions to enforce codes of conduct for their employees while whistleblowers are protected under the Whistleblower and Witness Protection Act. ■ FM

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