

**The Role of Professionals in Anti-Social Financial Practices:
The Case of Nigeria**

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Abstract

The burgeoning literature on the commercialisation of the professions has paid little attention to the predatory practices of professionals even though such practices affect a wide variety of arenas and stakeholders. This paper shows that professionals (such as bankers, and financial intermediaries) are increasingly willing to increase their profits and capital accumulation by perpetrating and facilitating anti-social financial practices, such as tax evasion, tax avoidance and corruption, and which that shows scant regard for social norms and legal regulation. The paper shows that some professionals do so despite having ethical codes of practice and despite claiming to be acting in the public interest. Thus, it draws attention to the gap between the claims of professionalism and what can happen in practice. The paper provides evidence of various cases to show how some professionals are engaged in anti-social financial practices. Using the results from interviews with key stakeholders, the paper argues that professional accountants and financial intermediaries are the facilitators of anti-social practices in Nigeria. The paper aims to encourage reflection on professional practices and offer some suggestions for reform.

Keywords: Professionals, Anti-Social Financial Practices, Nigeria, Accountants, Bankers, Lawyers.

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1. Introduction

'Anti-social practices'¹ in Nigeria are a recurring feature of media coverage. The coverage relates to a wide range of activities, such as tax avoidance/evasion, corruption, bribery, money-laundering, price fixing, drug-trafficking, child labour, poor wages, gender exploitation and other activities (see International Monetary Fund, 2001; UN Office on Drugs and Crime, 2005). In common with other socially constructed practices, a study of tax avoidance/evasion and corruption (hereafter referred to as 'anti-social practices') presents considerable challenges. Therefore, a comprehensive analysis of such matters is beyond the scope of this paper. Instead, it explores the role of professional accountants in anti-social financial practices (tax avoidance, tax evasion and corruption) in Nigeria

It has been argued in the literature that companies and the wealthy elite adopt a variety of tax evasion and avoidance schemes, and used tax havens and shell companies in order to avoid and evade taxes and increase their earnings (US General Accountability Office, 2005; US Senate Sub-Committee on Investigations, 2005, 2006; Sikka, 2003, 2008; Sikka and Hampton, 2005; Bakre, 2007). The outcomes of evasion and avoidance of taxes are associated with loss of tax revenue with the tendency to undermine the legitimacy of the government and to degrade the governing system and development (Cobham, 2005; Richardson, 2006; Sikka, 2008a). Corruption is considered to be a negative activity, in other words an activity which undermines social welfare (Amundsen, 2006; Bakre, 2007; Sikka, 2008a). The destructive capacities of corruption have been captured by metaphors which, for example, have described it as a 'cancer' (Wolfensohn, 1996, González de Aragón, 2004), a 'virus' (Elliot, 1997, Hao and Johnston, 2002; Underkuffler, 2005) and a 'disease' (Klitgaard, 2000; Underkuffler, 2005, Neutze and Karatnycky, 2007).

¹ Anti-social practices involve behaviour which confers improper benefits contrary to the legal and moral norms of society and which undermine the capacity of the authorities to secure the welfare of all citizens.

Due to rapid advances in technology, as well as globalisation of the financial services industry and mobility of capital, the evidence suggests that anti-social financial practices have become increasingly international and more complex. Thus, MNCs and the wealthy elite are able to roam the World to further their surplus accumulation and hide their income from taxation by means of anti-social financial activities (see Sikka, 2003; US Senate Permanent Sub-Committee on Investigations Report, 2006). The supply side of these anti-social activities has been dominated by MNCs, while the demand side has been the prerogative of the political and economic elites with the assistance of professionals, financial advisers and lawyers (see US Senate Sub-Committee on Investigations Report, 2003; Sikka and Hampton, 2005; Christian Aid, 2008).

Professionals (particularly the accountant) may be expected to combat anti-social financial practices by enhancing transparency and accountability and by developing techniques for fraud detection. However, a body of literature has argued that accounting and finance professionals increasingly use their expertise to conceal and promote anti-social practices (US Senate Permanent Sub-Committee on Investigations, 2005; Bakre 2007; Sikka, 2008; Otusanya, 2010). Accounting technologies, such as transfer pricing, have also become central to masking and shifting the proceeds of corrupt activities (see Baker, 2005; Pak, 2006; AAPPG, 2006; Sikka and Willmott, 2010). Thus, professionals use these technologies and structures to derive private economic gain for themselves and for their clients to the detriment of the public interest they claim to be protecting (US Senate Sub-Committee on Investigations, 2006; Bakre, 2007; Sikka, 2008; Otusanya and Lauwo, 2010). Thus, despite their claims to be acting in a professional manner, accountants have been implicated in facilitating the flow of public funds stolen from developing countries through structures in Western countries (AAPPG, 2006). Offshore tax havens² providing secrecy and low

² Offshore tax havens are regions which are relatively small geographically, and which offer shelter to international capital through bank secrecy, confidentiality, little (or no) regulation, and low (or no) tax (Palan, 2003).

regulation have been identified as key vehicles for the movement of 'hot' money³ (Palan, 2002; Tax Justice Network, 2006; Christian Aid, 2005; Palan *et al*, 2010). As an investigation by the US Senate Sub-Committee on Investigations (2006) revealed:

'Financial professionals often use offshore tax haven secrecy laws and practices that limit corporate, bank and financial disclosures as a "black box" to hide assets and transactions from tax authority, regulators and law enforcement'. (p. 2.)

The US Senate Committee on Governmental Affairs (2008) stated that offshore tax havens account for the loss of \$100 billion in tax revenues which was facilitated by accounting firms, lawyers and banks (US Senate Sub-Committee on Investigations, 2003, 2005, 2008).

Although the global anti-social practices' industry has attracted the increasing attention of international organisations and policy-makers (International Monetary Fund, 2001; World Bank, 2007; UNODC, 2005; Oxfam, 2000; Tax Justice Network, 2005) and scholars (Mauro, 1995; Cobham, 2005; Bakre, 2007; Sikka, 2008), comparatively little scholarly attention has focused on the role of professionals (such as accountants) in facilitating tax avoidance, evasion and financial corruption (Sikka, 2003, 2005, 2008a; Bakre, 2006, 2007; Otusanya, 2010). A number of studies have explored the impact of a range of explanatory variables (such as investment, bureaucratic efficiency, growth, fiscal termites and ethnolinguistic fractionalisation) on some aspects of anti-social practices generally (Mauro, 1995; Schneider and Enste, 2000; Tanzi, 2000, Akindele, 2005), but the literature in this area is diffuse. Thus, while there is considerable research on the relatively narrow aspects (causes, effects and consequences) of anti-social financial practices in developing countries (see, for example, Akindele, 2005; Peel, 2006; Martens, 2007; Bakre, 2008ab), little scholarly attention has

³ It has been estimated that \$1 trillion a year of 'dirty' money flows through tax havens and off-shore companies into the global banking system, one-half of which comes from developing countries and transition economies (Baker, 2005; Christian Aid, 2005).

been given to looking at the role played by professional accountants in anti-social financial practices.

This paper does not set out to provide a comprehensive analysis of financial corruption. Instead, it considers the 'dark' side of professional practice by examining the involvement of professional accountants in facilitating tax avoidance, tax evasion and corruption in Nigeria. The paper is organised as follows. Section 2 discusses the key roles played by professional accountants in facilitating anti-social financial practices. It explains how they have contributed to increasing the incidence of anti-social financial practices by designing tax avoidance schemes, acting as nominees for companies and advising on the operation of tax havens and OFCs through the transfer of illicit money from developing countries by wealthy individuals and corporations. Section 3 considers the role of professionals in facilitating anti-social practices, and which has had a damaging effect on the growth and sustainability of development. It also discusses the research methods adopted in the paper. Section 4 examines the national integrity systems in Nigeria to understand how these structures had shaped and constrained the conduct of professional accountants. Section 5 explores the evidence that implicates professionals as facilitators of anti-social practices in Nigerian politics. Section 6 report the views of significant others on the role of key professionals (e.g. bankers, lawyers and accountants) as facilitators of anti-social practices. It is suggested that MNCs and the elites may not be able to perpetrate anti-social financial practices without the involvement and assistance of professionals. The final section (Section 7) summarises and concludes the paper.

2. The Literature

It has been argued that anti-social practices cannot easily be perpetrated without the involvement of intermediaries and professionals who assist the perpetrators in converting the proceeds from illicit activities to a legitimate income (see U S Senate Sub-Committee on Investigations, 2005, 2008; Bakre, 2008a; Sikka, 2008a). In a globalised world professionals are intermediaries who perform key

roles in facilitating financial flows and in designing tax avoidance schemes. The world of tax evasion, tax avoidance and corruption has attracted some scholarly work which has shown that professionals (such as accountants, lawyers and bankers) are facilitators of corrupt practices, and that even the 'big four' accounting firms are involved in selling tax avoidance schemes to their clients (see, for example Sikka and Willmott, 1995; Sikka and Hampton, 2005; Sikka, 2005; US Senate Sub-Committee on Investigations, 2003, 2005, 2006, 2008; US General Accountability Office, 2005; Bakre, 2006; Christensen, 2006, Sikka, 2008a; US Senate Committee on Taxation, 2003). The literature has shown how professionals have helped MNCs, wealthy individuals and the political elite to perpetrate anti-social practices (see Mitchell *et al*, 1998; Christensen, 2006; TI, 2006).

The role of professionals in these anti-social practices is considered, starting with the role played by accountants, and partial reference to other professionals such as lawyers, bankers and financial intermediaries.

2.1 Accountants and Anti-Social Practices

The role of accountants in perpetrating anti-social practices seems to deviate from and contradict their primary role as external watchdogs of shareholders' wealth and as protectors of the public interest. In recent times accountants have been accused of being involved in what has been described as harmful and anti-social behaviour purely for the sake of high fees (Mitchell *et al*, 1998; Christensen, 2006; Bakre, 2007; Sikka, 2008; Otusanya and Lauwo, 2010).

In recent years there have been many studies which have examined the role of the accounting profession (both accountants and accounting firms) in cases of financial crime (such as fraud, corruption, tax evasion and tax avoidance) at the corporate, political directorate and public service levels (see for example, Sikka, 2005, 2008a; the US Senate Sub-Committee on Investigations, 2005, 2006; Mitchell *et al*, 1998; Bakre, 2006, 2007; Otusanya, 2010). Despite the fact that the major accountancy firms are some of the world's biggest corporations (Sikka,

2001, 2008a)⁴, it has been shown that, in order to increase their profits, accountants sell tax avoidance schemes, facilitate bribery and corruption, and facilitate the setting up of shell companies, complex corporate structures and a web of offshore companies and offshore trusts. Behind a veil of secrecy, and through global networks, accountants have diversified into tax avoidance, consultancy and anything else that will make a 'quick-buck' (Mitchell and Sikka, 2005).

The collapse of Enron, for example, drew attention to the widespread use of 'transfer pricing' schemes, tax havens, complex corporate structures and of royalty payments by subsidiaries to shuffle profits and avoid taxes, all in the name of 'shareholder wealth maximisation' which was also deployed by WorldCom (US Senate Committee on Taxation, 2003; Sikka, 2005; Mitchell and Sikka, 2005). The US Government, for example, loses over \$300 billion each year as a result of organised tax avoidance, and it has been shown that major accountancy firms are at the forefront of such activities (Sikka, 2006, 2008a). Sikka (2005), referring to the US Senate Committee on Governmental Affairs stated that:

'KPMG has devoted substantial resources to and obtained significant fees from, developing, marketing, and implementing potentially abusive and illegal tax shelters that U.S. taxpayers might otherwise have been unable, unlikely or unwilling to employ, costing the Treasury billions of dollars in lost tax revenues'. (p. 3.)⁵

⁴ The world of accounting is dominated by four accounting firms whose combined global income of \$80 billion is exceeded by the GDP of only 54 nation states, giving them enormous clout for influencing regulators and contesting unwelcome policies (Sikka, 2008, p. 269).

⁵ It has been reported that WorldCom, on the advice of KPMG, adopted a scheme by operating in tax havens which enabled it to pay \$20 billion in royalties over the period 1998-2001. This enabled the WorldCom group to avoid a net effect on its global profit, and KPMG collected \$10 million in fees. According to a news report by the United States Government Accountability Office, 207 of the 500 biggest companies worldwide obtain tax shelter services from specialized firms. The estimated potential tax revenue loss to the US government over many years concerning these 207 companies was about \$56 billion, nearly half of which related to tax years 1998-2003 (Basel, October 14, 2005).

A number of court cases show that accounting firms have been implicated in facilitating money laundering and selling tax avoiding schemes resulting in illegal transfers of money and tax dodging (see Mitchell *et al*, 1998; Sikka, 2005, 2008a)⁶. For example, the US Senate inquiry into KPMG's tax schemes found that KPMG created a 'tax innovation centre', which was treated as profit centre, and that its staff were subject to a periodic performance assessment in order to increase revenue. The centre 'maintained an inventory of over 500 'active tax products' designed to be offered to multiple clients for a fee' and its aim was 'to become an industry leader in producing generic tax products' (US Senate Sub-Committee on Investigations, 2003, p. 2, 25). The Senate report estimated that as much as \$85 billion might have been lost because of questionable tax shelters (p. 21). Although professional accountants have helped companies and wealthy individuals to evade taxes and effect illegal capital flight, they have denied their involvement in such corrupt practices, even though subsequent investigations have proved otherwise (Bakre, 2006, 2007, 2008; Sikka, 2008a). PricewaterhouseCoopers, for example, agreed to pay the USA more than \$2 million to settle allegations that it had (with IBM) solicited and provided improper payment and other things of value in respect of technology contracts with government agencies (*US Justice Department*, 2007)⁷. KPMG was also accused of not doing enough to flag improprieties in their client's (Siemens) books (*Wall Street Journal*, 2 May 2007). In 2004 KPMG was accused of failing to report an alleged bribe paid by BAE, UK's largest arms company, to secure an arms contract (*The Guardian*, 8 March 2004).

In addition, the legal profession has also been identified as another professional group promoting in various ways the ever-increasing patronage of the tax

⁶ They included: Ernst & Young International; PriceWaterhouse; Arthur Anderson; Jackson & Co.; Grant Thornton Partners; and Coopers and Lybrand (see US Senate Sub-Committee on Foreign Relations, 1992; Passas, 1996; Sikka, 2005, 2008a).

⁷ Available online at http://www.usdoj.gov/opa/pr/2007/August/07_civ_620.html accessed on 17 August 2007.

avoidance industry (the US Sub-Committee on Investigations, 2003, 2006; Palan *et al*, 2010). It has been shown that lawyers have acted as facilitators of anti-social practices (see, for example, Lankhorst and Nelen, 2004; Meddleton and Levi, 2004; Chevrier, 2004; Nicola and Zoffi, 2004; Nelen and Lankhorst, 2008). Thus, lawyers have assisted in establishing offshore structures⁸, drafting financial instruments and providing legal opinions on the legality of offshore transactions (the US Senate Sub-Committee on Investigations, 2006), and have acted as nominee directors and shareholders (Tax Justice Network, 2005). A number of studies have cited cases where lawyers have been involved in anti-social practices ranging from acting as 'messenger boy' for their clients to being involved in conflicts of interest (see Spronken, 2001; Lankhorst and Nelen, 2004)⁹. The US Senate Sub-Committee on Investigation Report on law firms and tax haven abuses confirmed the involvement of lawyers in anti-social practices when it reported that:

'Apart from giving legal advice, the lawyers helped identify and negotiate with offshore service providers to establish and manage offshore entities, devised ways to move assets offshore and drafted the paperwork needed to implement these transactions¹⁰ for their clients'. (US Senate Sub-Committee on Investigations, 2006, p. 361.)

⁸ The tax shelter as an offshore structure was designed, promoted, and implemented by Seattle-based security firm, Quellos Group, LLC, ('Quellos'), with the assistance of lawyers, bankers and other professionals. Quellos sold the shelter, called POINT, to five wealthy clients in six separate transactions. Together, the tax shelters were used in an effort to erase over \$2 billion in capital gains that would otherwise have been taxed, costing the US Treasury lost revenue of about \$300 million (US Senate Sub-Committee on Investigations, 2006, p. 6). The sixth, and final, case history comprised the most elaborate offshore operations reviewed by the Sub-Committee which showed that for over a 13-year period from 1992 to 2005, two US citizens, Sam and Charles Wyly, assisted by an army of attorneys, brokers, and other professionals, transferred over 17 million stock options and warrants representing approximately \$190 million in compensation to a complex array of 58 trusts and shell corporations (US Senate Sub-Committee on Investigations, 2006, p. 7).

⁹ One of the most prominent class-action law firms in the US was indicted on charges that it paid more than \$11m (£6m) in bribes to clients who had agreed to act as lead plaintiffs in dozens of corporate cases (*Telegraph*, 20 May 2006).

¹⁰ Among the names revealed by the report were: Pretter, Tedder & Graves, a Californian law firm; Jackson & Walker, a Texas law firm; Charles Lubar of the

Furthermore, banks and financial intermediaries also play a role in facilitating anti-social practices by serving as the channel through which illicit funds or 'dirty' money flow around the World. Although banks are major vehicles for economic development, as they provide funds for both the private and public sectors in an economy, they have been identified as facilitators of anti-social practices (Oxfam, 2000; US Senate Sub-Committee on Investigations, 2003; 2005; 2006, 2008).¹¹ For example, Tax Justice Network (2005) noted that:

'The banks also play a substantial role in the world of aggressive tax avoidance and evasion. They are implicated of knowingly providing the funding to facilitate abusive tax product designed by major firms of accountants'. (p. 33.)

People may look to elected governments to make the necessary investment in social infrastructures and to eradicate social inequalities or to use government revenues to redistribute wealth and enable more people to live fulfilling lives, but such aspirations are increasingly checked by anti-social and corrupt practices facilitated by accountants, lawyers and bankers. In order to fully understand anti-social financial practices in Nigeria, it is necessary to explore the role of professionals both inside and outside Nigeria, and also the various institutional structures which enable anti-social practices to flourish. The next section examines the sociological theory of professions such as accountancy and their claims of protecting the public interest.

London office of Morgan; and Lewis & Bockius, a Philadelphia-based law firm. Others were: the Dallas office of Jones, Day, Reavis & Pogus; Meadows Owens, a law firm; Cravath, Swaine & Moore; and Bryan Cave. The evidence showed that Cravath, Swaine & Moore; and Bryan Cave received substantial fees for their work on the POINT strategy. Cravath received at least \$125,000, and Bryan Cave received about \$1.3 million (US Senate Sub-Committee on Investigations, 2006, p. 369).

¹¹ The Berce Case and others, as described in the state and federal court filings, highlight the central role US banks have played in unfolding tax shelter scandals. While accounting and investment firms devised the shelters, banks helped promote and sell them (*Washington Post*, 31 August 2005), available on-line at <http://www.washingtonpost.com/wp-dyn/content/article/2005>.

3. The Theoretical Framework

With the intensification of globalisation and the opportunities it presents, the possibility of transferring capital/money to another jurisdiction has provided an additional weapon to armies of professionals seeking to maximise their financial gains. It has been argued in a number of studies that professionals (such as financial experts and lawyers) have been deeply involved in creating an enabling structure that encourages and facilitates the anti-social practices of elite groups (US Senate Sub-Committee on Investigations, 2005, 2006, 2008; AAPPG, 2006; Sikka, 2008a; Bakre, 2008). The following section considers the institutional and organisational structures that shape and constrain professionals in facilitating anti-social practices.

3.1 The Professionals and the Claims of Protecting Public Interest

Traditionally, the literature on the professions has considered the processes by which professionals (such as accountants, bankers and lawyers) have mobilised their claims of ethical codes, higher education and command of knowledge and to be serving the public interest in order to cement their social power. Puxty *et al.* (1997) have argued that it is this claim that professionals have regard to the public interest in their activities that is deemed to distinguish them from trade associations and trade unions. Such claims by professionals are used to advance their social, economic and political interests and to secure the control of markets and niches (Millerson, 1964; Willmott, 1986; Macdonald, 1995; Grey, 1998; Morris and Empson, 1998; Leicht and Fennell, 2001). Although it is assumed that compliance with professional standards, ethical codes and other rules somehow leads to good professional practice, this by itself does not help foster an understanding of the social and organisational context of these groups. This is because the literature has sometimes failed to address the fact that professionals may lack public accountability (see Mitchell *et al.*, 2001; Mitchell and Sikka, 2004).

A failure to consider the group dynamics of professionalism and socio-political structures presupposes that professionals are isolated individuals and thereby pays little attention to what organisations and society do for them. It has been argued that, when professionals work in organisations (where people are managed, and performance is assessed and targets are set as part of the enterprise culture), then such individuals are driven by commercial, rather than professional, logic (see Sikka, 2009; Suddaby, Gendron and Lam, 2009). Thus professionals who work in organisations¹² are subject to a wide variety of institutional pressures which shape and constrain them to behave in a particular way, and which may in fact conflict with their claims to be acting in a professional way (see Leicht and Fennel, 1997; Gunz and Gunz, 2006). Their performance is assessed and promotions and other reward systems are used in order to create a competitive atmosphere among professionals which normalises certain standards of behaviour. Such reward systems may exert pressure on professionals to engage in predatory practices and thus undermine their claim to be serving the public interest. Thus a changed institutional context may herald changes in the professional values and norms traditionally associated with professionalism and ethical codes (Hanlon, 1996; Leicht and Fennel, 1997; Sikka, 2004; Gunz and Gunz, 2006). Such an enterprise culture becomes institutionalised, as the individual professional begins to internalise these value systems and norms through a variety of mechanisms. These internalised practices and behaviour facilitate anti-social practices not only to increase their clients' profits and financial gains (e.g. those of MNCs and political and economic elites) but also their own.

In common with other organisations, professional firms oil the wheel of capitalism because they can design a variety of organisational structures, companies and

¹² These organisations can be professional service firms (PSFs) or non-professional organisations (NPOs). The term 'PSFs' is used to describe organisations involved in a variety of activities, from law, civil engineering and architecture to audit and accounting, consulting, advertising and software production (Mirros and Empson, 1998). 'NPOs' may include professionals serving in government, government departments, agencies and private companies.

front companies, and can act as intermediaries to create a space for professional services. In other words, professionals offer technical expertise to devise strategies that enable corporations and elites to build structures to escape rules and regulations in order to increase their economic and financial gains (Mitchell *et al*, 2002). These structures have been used to preserve some semblance of professional norms and values whilst simultaneously encouraging commitment to the employing organisation. However, the activity of professionals is constrained by organisational policies and values, national integrity systems, politics, and power, because their rewards ultimately depend on advancing organisational aims and objectives and personal interest (Sikka, 2009; Otusanya, 2010).

The internationalisation of professional services shaped by intense competition and pressure to increase earnings and accumulate wealth has created opportunities for professionals, and the process has been driven by both economic and financial gain. Hanlon (1994) claimed that:

‘In respect of professionals in the private sector the emphasis is very firmly placed on them being commercial and on performing services to customers, rather than on them being public spirited on behalf of either the public or the state’. (p. 150.)

Professional organisations therefore prioritise private profits and encourage competitive individualism, with an emphasis on retaining the client, pleasing the customer and promoting business virtues that increase profits (Grey, 1998; Leicht and Fennell, 2001; Gunz and Gunz, 2006; Suddaby, Cooper and Greenwood, 2007). Sikka and Willmott (1995) have argued that in order to survive, ‘accounting firms (have been) transformed into fiercely competitive businesses seeking to penetrate and expand markets for all kinds of business services where the trappings of professionalism (seem) increasingly remote and irrelevant’ (p 566). Bakre (2007) also observed that the ambition of many professionals (such as accountants and auditors) serving in both public and private sectors is to increase their earnings of their professional firms and also to bring financial rewards to the individual member/practitioner.

In an era of information technology, electronic transfers of money and easy mobility of capital, professionals have been able to use their knowledge of global financial systems and their ability to structure transactions in order to disguise the origin and destination of capital. Such processes are aided by a variety of structures embedded within the global economy, which are shaped by secrecy, confidentiality and anonymity, and the poor regulatory environment promoted by some onshore and offshore financial centres (OFCs). It has been argued that most professional firms also have considerable links with OFCs and tax havens. Such links and expertise can be used to devise schemes which are beneficial to professionals (Sikka, 2008b; Palan *et al*, 2010). Professionals (accountants, bankers and lawyers) therefore become facilitators who are often used by the political elite and public officials in order to promote their own capital accumulation through the plundering of public funds (Mitchell *et al*, 2002; AAPPG, 2006; Bakre, 2007; Palan *et al*, 2010).

In the above global context, the common interest view acknowledges that what is in the interest of an individual or group (such as accountant) may not always be equivalent in the public interest, and that individual interests may validly conflict (see Saks, 1985 quoting from Bakre, 2007). This therefore suggests that such claims of protecting the public interest are used by professional groups to continue to diffuse and crisis the profession may be facing in the society in which it operates and also a social control mechanisms that help to sustain their external legitimacy of the profession in the eyes of the public and their clients (see Neu *et al*, 2003).

The following section outlines the research methods deployed to discuss the role of professionals in anti-social practices.

3.2. Research Methods

There are considerable problems in collecting data on anti-social practices because corrupt practices are carried out in secrecy. It is extremely rare for participants to volunteer details of their practices. For this reason, it is only

possible to refer to publicly available evidence. This paper therefore uses court judgments, press reports of investigations¹³ and whistleblower accounts of anti-social financial practices to provide evidence of cases where professional have perpetrated and/or facilitated corrupt practices. Although such evidence may be partial and incomplete, it provides some evidence of anti-social practices. The cases chosen and described in this paper provide evidence of the anti-social practices which have acted as an impediment to development in Nigeria over the years.

The paper also provides evidence obtained from interviews conducted with significant others in order to gain an understanding of the prevailing role of professionals in anti-social financial practices in Nigeria. The aim of these interviews is to show how anti-social financial practices have developed and become institutionalised in Nigeria. With this aim in view, the writer visited Nigeria to conduct interviews in order to collect evidence¹⁴. Individuals, organisations and NGOs were visited in order to hear their views about the roles professionals have played in facilitating anti-social practices in Nigeria. The interviews were semi-structured and usually lasted between one to two hours. A number of interviews were digitally recorded and subsequently transcribed. Where this was not possible detailed notes of the interview were taken.

The interviewees were drawn from three cities in Nigeria: Lagos, Ogun and Abuja.¹⁵ The interviewees comprised five groups which were chosen in order to capture the various aspects of the research and the various linkages the groups

¹³ The Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the US Security and Exchange Commission and the US Department of Justice.

¹⁴ The interviews were conducted between 16 May 2007 and 10 September 2007 in Nigeria.

¹⁵ Lagos was chosen because it is the former capital of Nigeria, a cosmopolitan city and the nerve-centre of the country and Ogun State in the Southwest of Nigeria, while Abuja is the seat of power where most of the political elite, the members of the House of Assembly, regulators (EFCC, FIRS, CBN) and others are based.

might have with Nigerian society, and in order to obtain a broad view. The interviewees consisted of: professionals; tax officials; NGOs; the media; and regulators. It was the writer's view that these actors were facilitators, regulators or critics of financial criminal practices in Nigeria.

Where anti-social practices are embedded in society, they become part of the daily routine, in other words such practices become the norm. It has been argued that enduring social practices are reproduced and transformed by institutional structures and purposeful actors (Bhaskar, 1989). They are strongly shaped by discourses which are articulated by powerful groups, such as non-governmental organisations, civil society groups and the media. In the process of reproduction, these groups have a particular role to play in shaping and transforming society. Therefore journalists and regulators, as part of the structure and agency, have historically been key actors. In order to provide a better understanding of the relationship between professionals and society, it was considered necessary, for the purpose of this research, to solicit the views of journalists and regulators. The combination of the interviewee accounts and the analysis of documentary reports are particularly useful in this respect as it not only serves to highlight the pervasiveness of anti-social practices, but also helps frame and contextualise the active role of professionals in facilitating anti-social practices in Nigeria.

It has been argued that the environment in which professionals operate will usually determine the extent to which they can successfully discharge their role as society watchdogs (Okike, 2004; Bakre, 2007; Iyoha and Oyerinde, 2010; Otusanya and Lauwo, 2010). In the above context, the national integrity system in Nigeria is considered next.

4. National Integrity System in Nigeria

In order to understand the general environment in which professional accountants operate in Nigeria, it is necessary to consider the social-political and economic contexts in which accountants work. This is because the efficacy of professional practice in any environment is determined by the socio-political and

economic factors prevailing with such environment (Okike, 1994; Otusanya, 2010). The recent reported cases of unethical practices by professionals, their involvement in the recent banking crisis and endemic corrupt practices by economic and political elite have caused many to question the credibility of professional accountants (Okike, 2004; Bakre, 2007; Otusanya and Lauwo, 2010) and the level of national integrity system in Nigeria (Transparency International, 2004).

Nigeria is the second largest country in Africa and has a population of about 145 million, comprising of 6 geo-political zones (*US Senate Sub-Committee on Investigations, 2010*). The country is a federation of 36 states and a federal capital territory, Abuja. Since Nigeria gained independence in 1960, the management of the economy has been shaped by continuous military rule and de-emphasis on accountability. Thus, stable and accountable democratic institutions have never really been established. In addition, Nigeria has suffered a long history of gross mismanagement of its economy and of corruption at all levels of government (Okike, 2004; Transparency International, 2004; Bakre, 2008). These development and challenges have had a significant impact on the professional accountants in Nigeria. This is because accountability and transparency in the management of public funds cannot be effective without a viable accounting infrastructure and uncompromised professional accountants.

Professional accountants have been identified as the 'watchdogs' of society (Porter, 1992). But in a country like Nigeria where anti-social practices is endemic and institutionalised, the claims of professional accountants in protecting public interest may be in doubt (see Okike, 2004; Bakre, 2007). Iyoha and Oyerinde (2010) have argued that the state of accounting infrastructure is relevant in explaining the level of accountability that can be achieved in the management of public funds. Adeyemi (2004) noted that there is a general opinion that modern day Nigerian Accountants are mere tools in the hands of perpetrators of fraud, and that they simply allow personal interest to override their national call to duty. A number of studies have suggested that while accountants and auditors may be

claiming to protect the public interest, this claim may still rest on the socio-political and the national integrity system in Nigeria (see Bakre, 2007; Otusanya and Lauwo, 2010; Iyoha and Oyerinde, 2010).

There are a plethora of regulations and professional code of conduct that provide a platform for financial management in the private and public sectors and in the professional practice. It has been observed that 'no matter what the legislation is in place, the professional accountants and lawyers will find a way around it' (Sikka, 2005). Whilst accountants have the duty to uphold their ethical conduct and protect the public interest, Gruner (1999) however argued that professionals' commitment to ethical conduct is shaped by the kind of legal and regulations that exist to protect accountants.

Accountants who exposed corruption can suffer such untoward consequence as legal problems, loss of job, loss of client, loss of reputation and perhaps, in most cases, loss of life (p. 37).

In the case of Nigeria, accountants and auditors are powerless in dealing with anti-social practices as observed by Wallace (1992):

Some auditors have been assassinated ... after it had become evident that they had unearthed the ugly truth regarding massive fraud in their client companies (p. 45).

Okike (2004) corroborated the above view by providing insight into cases in which professional accountants and auditor were murdered owing to adequate protection of professionals and whistleblowers in Nigerian society. This insecurity, governance structure and corrupt societies has further constrained professionals from upholding their professional values.

The legal and judicial institutions can be influential in curbing anti-social practices among professionals, economic and political elite in democratic states. It has been argued that Parliament plays a crucial role in curbing anti-social practices, both in enacting appropriate laws to counter anti-social practices and in seeing through its committees that these laws are enforced (see Pope, 2006). The due

process of law¹⁶ requires an independent judiciary to interpret the Constitution and other laws and to adjudicate on them. An effective judiciary is a significant element in combating anti-social practices through the enforcement of the rule of law (Langseth and Buscaglia, 2002; Transparency International, 2004).

Since independence, successive Nigerian Governments have sought to combat anti-social practice by enacting a wide variety of laws (see Transparency International, 2004). Prior to 1966, the Criminal Code was the primary source of law dealing with anti-social practices in Nigeria. However, due to the limited nature of the Criminal Code in dealing with anti-social financial practices such as corruption, it was replaced by the Criminal Justice (Miscellaneous Provision) Decree in 1966. In 1975, the Corrupt Practices Decree No. 38 of 1975 was enacted to deal with corruption. These provisions, however, failed to curb corruption, and little success was recorded in the fight against anti-social practices (Obayelu, 2007). On return to civil rule in 1979, the various military decrees dealing with corrupt practices were replaced with a Code of Conduct and these were enshrined in the 1979 Constitution to address the major problems arising from the unprincipled government sector¹⁷ (see Osaghae, 1998; Obayelu, 2007). The review of the Law of the Federation from 1990 to 2006 showed that 11 different Acts¹⁸ were enacted after independence for the purpose of combating anti-social financial practices in Nigeria (see Table 1 below).

¹⁶ Specifically, Part Two of Chapter One of the 1999 Constitution makes clear and unambiguous provisions for the separation of powers of governance of the country among the three arms of government, namely the legislature, the executive and the judiciary. Section 6(1) of the Constitution provides that the judicial powers of the Federation shall be vested in the court being the court established for the Federation, while s.6(2) provides further that the judicial powers of a State shall be vested in the courts established for the State.

¹⁷ Details of the Code of Conduct for public officials which ranges from conflict of interest, restrictions on specified officers, prohibition of foreign accounts, retired public officers gifts or benefits in kind, bribery of public officers, abuse of power, membership of societies and declaration of assets among others, can be found in section 1-14 Fifth Schedule, Part 1 of 1999 Constitution (pp. 151-154).

¹⁸ Nigeria had military rule until the 29 May 1999 and the legislation – main and subsidiary – made from year to year by the military were named ‘Decrees’. These Decrees are part of the laws of the Federation of Nigeria. Laws made since 29

Table 1: Anti-Social Financial and Corruption-Related Legislation

| Year | Corruption-Related Legislations | Chapter/ Decree |
|------|--|--------------------|
| 1990 | (a) Criminal Code Act | 77 |
| | (b) Code of Conduct Bureau and Tribunal | 56 |
| | (c) Recovery of public Property (Special Military Tribunals) Act | 389 |
| 1993 | Code of Conduct Bureau and Tribunal (Amendment) Decree | 20 |
| 1994 | Failed Banks (Recovery of Debts) and Financial Malpractices Decree | 18 |
| 1995 | Money Laundering Decree | 3 |
| | Foreign Exchange (Monitoring and Miscellaneous Provision) Decree | 17 |
| 2000 | Corrupt Practices and Other Related Offences Act | 5 |
| 2002 | Economic and Financial Crimes Commission (Establishment) Act | - |
| 2003 | Money Laundering (Prohibition) Act | 7 |
| 2006 | Advance Free Fraud and Other Related Offences Act | - |

Source: Extracted from Laws of the Federation of Nigeria, available on-line at <http://www.nigeria-law.org/LFNMainPage.htm> accessed on 21 March 2008.

The plethora of laws¹⁹ seems to have failed to control or reduce anti-social practices (ICPC, 2007, Obayelu, 2007). As Agbu (2003) observed:

‘It is not that anti-social financial practices has not been recognised as the “enemy within,” it is however, that the political will to begin to tackle the

May 1999 are also named ‘Acts’, available on-line at <http://www.nigeria-law.org/LFNMainPage.htm>; accessed on 21 March, 2008.

¹⁹ Past failed interventions against corruption included: the Corrupt Practices Decree of 1975; the Public Officer (Investigation of Assets) Decree No. 5 of 1976; supplemented by the Code of Conduct Bureau and the Code of Conduct Tribunals as provided for in the 1979 Constitution; the Jaji Declaration in 1977 by General Olusegun Obasanjo; the ethical Revolution of President Shehu Shagari (1979-83); the War Against Indiscipline by General Muhammadu Buhari in 1984; the National Committee on Corruption and other Economic Crimes by General Ibrahim Babangida in 1987, Corrupt Practices and Economic Decree of 1990 and War Against Indiscipline and Corruption in 1996 by General Sani Abacha (Agbu, 2003; ICPC, 2007).

problem in Nigeria has been non-existent, except for the Muhammadu Buhari/Tunde Idiagbon regime (1984-85) and the former civilian government of former President Olusegun Obasanjo²⁰.

A renewed effort to stem anti-social financial practices was made in 2000 by the former President Obasanjo, by setting up the Independent Corrupt Practices and Other Related Offences Commission (ICPC) chaired by a retired judge²¹, and in 2004 the Economic and Financial Crimes Commission (EFCC)²² was established to investigate and prosecute cases of corrupt and other anti-social practices. This institution was complemented by other structures, such as the Budget Monitoring and Price Intelligence Unit (BMPIU) and the principle of 'due process' (see Transparency International, 2004). Despite the positive nature of these developments, and subsequent arrest and indictments, it has been argued that too many high-ranking officials, economic elite and professionals were either not prosecuted or were merely fired (Fawehinmi, 2004; Ikubaje, 2005; Bakre, 2007; Otusanya and Lauwo, 2010).

One of the institutional structures aimed at fostering transparency and accountability in the public sector is the creation of the office of the Auditor-General. Public accounts of all offices and courts of the federation are to be audited and reported by the Auditor General. These reports have to be submitted to the National Assembly, for which purpose, the Auditor General or any other person authorised by him must have access to all books, records, returns and other documents relating to those accounts²³. However, the Auditor-General has been constrained in discharging these constitutional duties. As observed by Transparency International (2004) 'the office of the Auditor-General is not totally

²⁰ Available on-line at <http://www.africaresource.com/war/vol14.1/agbu.html> accessed on 10 March 2008.

²¹ The Commission was formerly chaired by a retired judge, the Honourable Justice Mustapha Akanbi, and is now chaired by another retired judge, the Honourable Justice Emmanuel Ayoola.

²² The EFCC was headed by Mallam Nuhu Ribadu, an Assistant Commissioner of Police (2004-2007), former acting Chairman, (2007-2008), and now by Mrs. Farida Wasiri (2008 to date).

²³ See s. 85(1) of the 1999 Constitution of the Federal Republic of Nigeria.

independent, as there is much interference in its affairs. The office is funded by the federal government and the Auditor-General and his staff are civil servants, making them subject to the control of the executive' (p. 37). As a consequence, professional accountants in the private and public service are constrained within the embedded political environment in which they operate. For instance, the report of the 2002 audited accounts was reported not only to be inaccurate but has been distorted. According to the Vincent Azie²⁴,

'The 2002 report showed that there had been financial irregularities in most audited institutions and federal bodies. Over-invoicing, non-retirement of cash advances, lack of audit inspection, payment for jobs not done, double-debiting, contract inflation, lack of receipts to back up purchases made, brazen violation of financial regulations, release of money without the approving authority's involvement were rife within the reporting period' (Transparency International, 2004, p. 32).

It has been argued that the concept of internal control system that may facilitate transparency and accountability is redundant because all the officers (for instance, professional accountants) involved on the control trail can easily be influenced and bribed (Wallace, 1992; Okike, 2004; Bakre, 2007). These unethical and anti-social practices were created by weak institutional structures, weak accounting systems and inadequate financial controls embedded in the socio-political environment in Nigeria.

It has therefore been argued that these anti-social practices could not have endured without the involvement of professional accountants which contradicts their claims of protecting the public interest (Adeyemi, 2004; Okike, 2004; Bakre, 2007, Otusanya, 2010; lyoha and Oyerinde, 2010). Bakre (2007) argued that the reluctance of professional bodies to either investigate or discipline their erring members has contributed to ever-increasing involvement of professional accountants and auditor in anti-social practices. A number of scholars have also argued that weak internal monitoring, privacy, non subject to any form of external scrutiny and capitalist society in which the accountants operate, arguably shape

²⁴ He was the then Acting Auditor-General of the Federation of the Federal Republic of Nigeria.

and allows it to engage in fraud, corruption and other anti-social financial practices (Okike, 2004, Adeyemi, 2004; Bakre, 2007; Otusanya and Lauwo, 2010).

In addition, the house committee of the legislative, 'public accounts committee' for the House of Representative and 'finance and appropriation committee', of the Senate are expected to critically assessed the report of the Auditor-General with the intention to summon the relevant government parastatals, departments, institutions, etc., for explanation (Transparency International, 2004). However, a number of scholars have argued that these committees have not been able to successfully discharge their duties (Iyoha and Oyerinde, 2010). This was attributed to breakdown of the system of accountability, non-readiness of the committees report in good time to correct and to bring the culprits to justice. An inadequate framework for government accountability can also facilitate anti-social practices. Evidence have shown that lack of transparency, inadequate supervision and poor enforcement systems reduce the likelihood of exposure and censure for wrongdoing, and push the cost-benefit calculus in favour of anti-social practices (Kaufmann and Dininio, 2006; Bakre, 2007). The National Integrity System in Nigeria have been largely ineffective and has not inspired confidence among stakeholders (Transparency International, 2004). As a consequence, unstable and unregulated socio-political environment affects accountability and shapes professional practice in Nigeria.

4. Professional Accountants and Anti-Social Practices

This section considers a number of cases where professionals pledged to be behaving according to their claims of professionalism, but were in fact perpetrating and facilitating anti-social practices. The cases show the role played by financial intermediaries in tax evasion/avoidance and corrupt practices in Nigeria. Since professionals rarely volunteer information about their involvement in anti-social practices, only evidence from cases which were brought into the

public domain (by regulators, courts, press reports and parliamentary investigations) is provided here.

In 2003 the US Security and Exchange Commission (US SEC) found that the auditors who were responsible for determining the amount of tax owed by the Willbros group had accepted a bribe of \$350,000 in order to reduce the tax obligations of employees of Willbros affiliates in Nigeria (*United States District Court Southern District of Texas, 2008*). In 2007, the US SEC indicted the Bristow Group for inducing state officials in Nigeria to evade paying PAYE tax for 2002 and 2003 owed to two state governments in Nigeria. The report shows that the Bristow Group, through its subsidiary in Nigeria, PAAN, evaded payment of \$873,940 (N121.38 million)²⁵ for 2002 and 2003 in employees' personal income tax. The professionals (tax officials) in Delta State caused the Nigerian government to lose \$793,940 in PAYE tax for 2002 and 2003, and \$325,440 payable to tax officials. In Lagos State, the government also lost \$80,000 in 2002, an unknown amount for 2003, and \$97,860 to tax officials. As a result, the government was only able to collect \$121,700 from the negotiated sum of \$545,000, with the remainder being for personal payments (unreceipted cash) (*US SEC Administrative Proceedings, 2007*). Apart from the collaboration of some of the company executives, the unethical tax practices cannot be successfully planned and executed without the professional collaboration of their accountants and those of the accountants at the federal and state revenue service. However, such predatory practices cannot be possible without the knowledge of both the Willbros and Bristow accountants and external auditors. This further suggests the contradictory role of accountants and auditors in the endemic anti-social practices in Nigeria.

The investigation of the Economic and Financial Crimes Commission (EFCC) into the activities of the Nigerian Port Authority (NPA) between 2001 and 2003 found

²⁵ According to the US SEC, the payment amounts were approximate and were based on a conversion rate of N139 to the US dollar (*US SEC Administrative Proceedings, 2007, p. 4*).

the two consulting firms²⁶ of Messrs Aminu Ibrahim & Co and Messrs Gboye Ayoade & Co to be implicated in pursuing unexecuted contracts relating to fraud detected in the NPA on which they were to be paid 15 per cent commission. In breach of the agreement these firms were paid a total of \$3.65 million (N456.25 million); and another contract for \$9.19 million (N1.15 billion) was about to be paid for on the directive of the supervisory ministry when payment vouchers were intercepted and the payment was stopped by EFCC officials (*The Punch*, 5 March 2006). This appeared to be a clear indication that the supervisory ministry directive for the payment for the two contracts, when the management of the NPA believed otherwise, confirmed that political pressure was put on the Nigerian Port Authority (*The Punch*, 5 March 2006).

The EFCC report found that contracts were awarded to Messrs Thalia Solutions for computerisation projects and the training of Nigerian Port Authority officials. It was revealed that the Messrs Thalia Solutions was paid N36.0 million and \$1.62 million for 20 months.²⁷ Ironically, Thalia Solutions whose contract was terminated by the Port Authority for lack of performance was awarded another new contract to be paid £70,000 (N17.71 million) and N2.25 million monthly totalling about N19.96 million. Messrs Robert Ade Odiachi & Co was also implicated in N38.31 million contracts for the computerisation of the NPA's accounting system and received full payment without a certificate of satisfactory job performance (*The Punch*, 5 March 2006).

In the Malam Nuru Ribadu, administrative investigative fact-finding Committee's submission, most of the contacts reviewed were not awarded on the basis of need but merely to create an avenue through which to siphon money from the system (*The Punch*, 5 March 2006). The financial regulations were violated and the various professional firms indicted were in contradictory position of protecting

²⁶ These companies are accounting firms who also engage in consulting services for their client.

²⁷ The contractual agreement was that the Company would be paid N1.8 million and \$81,000 monthly as service charges.

the public interest by being 'watchdog', accountable and transparent, yet they are implicated in facilitating unethical and anti-social practices.

There are cases in Nigeria where accountants in the various government establishments have facilitated looting of the Treasury by politicians and public officials. For instance, the Accountant General of Ekiti State could not account for N11.9 billion (\$95.2 million) of the N17.9 billion paid into the State Joint Local Government Account (JLGA) from the Federation Account as statutory allocation accruing to the 16 local governments in Ekiti State (*EFCC Report to the Ekiti State House of Assembly*, 21 September 2006). The investigations shows that: N2 million per month was paid to each local government chairman; N500 million was paid into the account of former Governor Ayo Fayose's Foundation; and that a further sum of N100 million was shared among government officials and the political elite in the State²⁸ (*EFCC Report to the Ekiti State House of Assembly*, 21 September 2006). The evidence gave some insights into these alleged irregularities and fraudulent practices in the management of state resources by state governors. This therefore suggests that the Accountant General of Ekiti State could not have been ignorant of these transactions, because it was not possible for disbursements to be done without his knowledge and approval. The Accountant-General was constrained from adhering to strict financial regulations and professional codes due to the political environment, weak national integrity system and neither could he overrule the Governor's request for fear of losing his job or life.

The EFCC investigations of the state governors in Nigeria implicated former Governor Joshua Dariye (an accountant turned politician) in corrupt financial practices, in other words for embezzling over N1.29 billion (\$10.32 million) in public funds during his eight-year reign as Governor of Plateau State (*The News*, 23 July 2007). He was arraigned before the Federal High Court, Abuja, on a 14-count charge (see Charge No. FHC/ABJ/CR/85/2007). Dariye pleaded not guilty

²⁸ This included members of Ekiti State House of Assembly and Chairman of People's Democratic Party (PDP) in Ekiti State.

to the charges and was later granted bail which resulted in him being freed from Kuje Prison where he had been remanded (*The News*, 30 July 2007). The charges, and the case is still in court. Chief Anthony Ani, the then Minister of Finance, was also implicated for facilitating the corrupt practice of former General Sani Abacha (*ThisDay*, 23 February 2001). The sums of \$3 million and DM 30 million were recovered from Ani, which he claimed were given to him as gifts by General Sani Abacha (*ThisDay*, 23 February 2001; Iroanusi, 2006). The two cases of Dariye and Ani were an indictment of Nigerian accountants and also the members of the Institute of Chartered Accountants of Nigeria. Despite the indictment of these members of the Institute, the professional bodies who claimed to be protecting public interest, accountability and transparency did not deem it fit to punish their erring members but has chosen to be silent to protect the interest of its erring members (see Bakre, 2007).

In the investigation of Governor James Onanefe Ibori of Delta State it was alleged that the chief accountant in the state government house was an accomplice in several cash lodgements amounting to N400 million (\$3.2 million) (*ThisDay*, 31 October 2007). The State Accountant General and the Commissioner of Finance were to protect the interest of the public and to ensure adequate safeguard of the national resources. Yet they have been key role-players in the corrupt practices of a number of state governors because their duties were shaped and constrained by the political environment which had no regard for financial regulation, accountability and transparency (Otusanya, 2010). For instance, the former Adamawa State Commissioner for Finance, John Babani Elias, was indicted, arraigned and charged on a 15-count charge for illegal diversion of N88 million of State funds. He pleaded not guilty to the charges, and the case is still in court (*The Punch*, 11 May 2008).

As literature suggests, professional accountants are not the only culprits in anti-social practices in Nigeria. Evidence has also shown that professional lawyers and financial intermediaries (bankers) are also culprits in these practices in Nigeria. Lawyers have also been implicated in facilitating the financial corruption

perpetrated by the political elite in Nigeria. The EFCC has revealed that lawyers made themselves available as bribe-couriers for corrupt public officers (*Nigerian Tribune*, 2 February 2009). Lawyers were in the habit of exploiting the weakness of the Nigeria's judicial processes by filing frivolous applications in order to frustrate the trial of suspects for corruption, money laundering and other anti-social practices. The EFCC Chairperson stated that:

'The activities of some unscrupulous lawyers who fraudulently obtained money from their clients under the pretext of paying some amount as bribe to officials of the Commission to "kill" cases under investigation'. (*Nigerian Tribune*, 2 February 2009.)

A number of reports by the Nigerian authorities and international regulators have exposed the involvement of several Western and local banks in facilitating corruption and other anti-social practices in Nigeria. The former EFCC Director of Operation²⁹ accused local banks of being actively involved in the perpetration of anti-social financial practices (*The Punch*, 13 August 2006). He observed that:

'Banks aided perpetration of money laundering and other financial malpractices through undercover banking transactions, where the identities of customers were concealed. Most of the customers involved in the practice were politicians and government officials'. (*The Punch*, 13 August 2006.)

As already pointed out, the accounting profession often equates the fulfilment of its public interest role with its commitment to accountability and transparency in its actions. With the above evidence of implications of professional accountants (both in the private and public sector) in professional misconduct and for facilitating anti-social financial practices in Nigeria, statutory, regulatory and professional codes demand that professionals should be accountable, transparent and protect the public interest. On the contrary, this paper suggests that professional accountants collude with elite, company directors and facilitate anti-social financial practices. A number of professional accountants and

²⁹ Alhaji Ibrahim Lamorde was the then Acting Chairman of the EFCC after former Chairman Mallam Nuhu Ribadu was forced on purported compulsory study leave at the Institute of Policy and Strategic Studies in Kuru, Jos.

professional bodies have been implicated in the recent banking crisis, corporate collapse and financial impropriety of the public officials and political elite.

5. The Role of Professionals: The Perception of Stakeholders

Anti-social financial practices and consequent capital flight cannot be easily perpetrated without advice and facilitation by professionals, such as accountants (Bakre, 2006, 2008). This section therefore provides evidence of the views of professionals, tax officials, NGOs, the media and regulators on the structures that influence the activities of those involved in anti-social practices in Nigeria. Thus, this section reports the results of the semi-structured interviews³⁰ which were used to solicit the views of five key groups of significant others on the role professionals play in respect of anti-social practices. As the interviewees were promised anonymity, coded names are used. Their views, it is submitted, represent the opinions of most Nigerians, because these groups form the core of those prominent actors and participants involved in reforming the institutions in order to reduce anti-social practices in Nigeria.

5.1 The Views of Non-Governmental Organisations

The views of various NGOs were solicited on the question of whether professionals in Nigeria are involved in anti-social practices in breach of the rules and standards of their profession and their claims of protecting the public interest. Mr. Z acknowledged the involvement of professionals in anti-social practices in general terms as he commented that:

‘They operate within the same society, they are subjected to the same pressure, and they are subjected to the same environment. Therefore, expecting to find a virgin in a maternity ward where everybody there is supposed to be delivering will be problematic’.

³⁰ The interview guide consisted broadly of five parts which looked at the structures, causes, key role players, consequences and reforms. Although the number of question varied, they were designed with the role of the stakeholders in mind.

Mr. X and Mr. Y said that there was evidence to show that professionals had colluded with companies, individual taxpayers and the elite in order to make financial gain. Mr. Y explained that:

‘It has been on record that several external auditors (accountants) collude with companies to report a reduced profit for the purpose of paying lesser taxes. We are aware of the celebrated case of Cadbury, the Managing Director Mr. Bunmi Oni, and the external auditor, Akintola Williams and Deloitte. The external auditor concealed and colluded with the sacked managing director and the financial director, who were chartered accountants, to falsify the accounts without taking cognisance of the repercussions’.

The interviewees were also asked what they thought would prevent professionals being involved in anti-social financial practices. Mr. X in his response said:

‘The external auditor, accountants, bankers and other professionals found in these shoddy deals should be prosecuted and tougher sanctions imposed. It is recommended that professional bodies be mandated to de-accredit any erring members. Having a tougher sanction for those perpetrating the act and enforcing without fear or favour will instil caution into the minds of others who may be planning such act’.

Mr. Z commented that the way in which professionals were rewarded needed reform:

‘A reform of the socio-political and economic systems of the reward system is very important. If they are sure that when they retire they would have something to fall back on and that they would not have to cater for extended family, that is, they will not have to step into what the government has otherwise not provided for or neglected. There will be fewer incentives. This is not to say that there will not be hidden criminals who will still go around but at least there will be some sanity’.

It has been argued that structures created by bank secrecy, offshore financial centres and other banking services shaped by globalisation facilitate the anti-social practices of professionals (AAPPG, 2006; Sikka, 2008; Bakre, 2008). The views of the NGOs on the role of Nigerian banks in concealing the activities of politicians were sought in order to explore how this had been carried out in recent times. The NGOs claimed that the banks had played a leading role and that they were the real havens for stolen funds. In this respect Mr. Y claimed that:

‘Several banks in Nigeria have been known in the past for aiding political leaders to launder public funds to foreign banks. We are aware of Wema Bank which assisted the former governor of Ekiti State, Ayo Fayose, to launder public money to the United Kingdom. Fidelity Bank was also named for assisting Governor Peter Obi of Anambra State to conceal public funds along with so many other cases’.

Mr. Z also corroborated the fact that banks have been involved in illegal financial practices:

‘Yes, of course, people have money outside the country, which this went through the banks. Until the Money Laundering Act, money was transferred out of the country and the majority of it was through banks. During the Abacha era, a lot of money went to Switzerland, and the government itself is still trying to assert itself to get all this money repatriated back. Everybody is aware, and the Abacha case is a household one; and there are so many others like that’.

5.2 The Views of the Journalists

The views of journalists were solicited about the role of professionals in anti-social practices. They were of the view that professionals had assisted public officials and the political elite in looting huge sums from the Treasury, and that these sums were currently sitting in Western banks. Journalist 2 explained how bankers are involved in concealing the activities of politicians:

‘Banks accept politicians’ deposits without following the required laws regarding their issue and sometimes refusing to notify the appropriate authority or agencies of any suspicious financial transactions of these individuals. Banks and other financial institutions charge outrageous interest-rates, and grant loans to well-connected politicians and others willing to ‘wet-the-ground’, but who would never pay back the loans’.

Journalists 1 also confirmed that professionals had been involved in illegal financial activities and practices:

‘Without proper monitoring, the tax collection authority delegated to banks is now creating problems in which the money collected by these banks could not be accounted for. Therefore, corrupt public servants through the help of professionals have in the recent past exploited loopholes in the public finance system to loot the treasury and abuse of FIRS law’.

The above evidence seems to show that Nigerian banks have played a key role in anti-social practices by creating room for corrupt practices to continue to flourish throughout the Nigerian banking system. *The Punch* newspaper reported:

‘Unfortunately, some of these frauds and practices are staff-induced and this calls into question the loyalty of some of the employees of our banks, even though one may argue that it is a reflection of the larger society’. (The Punch, 2 February 2009.)

It has been stated by scholars that Nigerian banks were used to launder and siphon money to Western banks (Akindele, 2005; AAPP, 2006; Bakre, 2008). Nigerian newspaper reports have also implicated bankers in facilitating the anti-social financial practices of the political elite by creating enabling structures that have allowed politicians to loot the Nigerian Treasury. The *Saturday Tribune* reported that the banks have been implicated for violating the law:

‘The high-profile investigation into the activities of the banks after investigations abroad showed that large sums of money was moved from Nigeria to Europe without banks reporting to the Commission as required by the extant laws guiding banking operations in the country’ (Saturday Tribune, 20 December 2008),

It was reported in the *Nigerian Village Square* newspaper that accountants, lawyers and bankers have been increasingly involved in money laundering:

‘There is today increasing ‘professionalisation’ of money laundering by employing professional launderers such as accountants, lawyers and private bankers. These professionals provide advice and assistance in laundering criminal funds, ensure financial secrecy, and create trusts and expert use of offshore havens supported by latest electronic technology’. (Nigerian Village Square, 30 August 2007.)

Nigerian banks are expected to make a Suspicious Transaction Report (a STR) to the Economic and Financial Crimes Commission, but many banks have failed to do so. *The Sun* was of the view that:

‘Though most banks have implemented the STR policy, according to a banker, some banks do not make a STR report to the EFCC and that is why banks are bearing the brunt of the problem. Had the bank reported, following standard operation procedures and guidelines on STRs, the bank would not be in this mess’. (The Sun, 23 December 2008.)

A number of banks have been investigated by the regulators, but no further steps have been taken, thereby showing that banks in Nigeria seem to be immune from prosecution. The evidence from newspaper reports on the role of professionals in anti-social practices suggests that clamping down on such practices cannot be achieved without the introduction of appropriate regulations and sanctions to make money-laundering and other related practices less lucrative to perpetrators.

5.3 The Views of the Professionals and Tax Officials

Professionals and tax officials³¹ were interviewed in order to ascertain their views about the involvement of professionals and tax officials in tax evasion, tax avoidance and corruption. This was done in order to see whether their views might support the views expressed by the NGOs and journalists (see above).

All 14 interviewees (who were either professionals or tax officials) were of the view that accountants, bankers and lawyers were involved in anti-social financial practices. Mr. B, a tax manager, said that 'professionals were involved because no fraud would occur without the knowledge of a professional'. Mr. F, a professional representing one of the accountancy institutes, said that some senior members of the tax authorities were being investigated for corruption:

'You will have observed that during the past six months, [some time in 2007], the Federal Inland Revenue Service have had cause to relieve some members of their senior staff of their duties because of corrupt practices. The Chartered Institute of Taxation of Nigeria (CITN) have been investigating two of the senior members of the Revenue who are members of the institute. I am very sure that other professional bodies, especially accounting bodies in Nigeria and some other professional bodies, were also having to investigate many cases of their members who are involved in what he called 'these worrisome activities'. [Emphasis added.]

³¹ The term 'tax officials' denotes professional accountants and tax experts who are either members of the Institute of Chartered Accountants of Nigeria, the Chartered Institute of Taxation of Nigeria; and other accounting related bodies who are under the aegis of the Federal and State Revenue Authorities. The distinction is that they are professionals working for the government while other professionals are working in private practice as chartered accountants or chartered tax practitioners.

In contrast to the above claims (*i.e.* that tax officials and other professional, such as bankers, accountants and lawyers are involved in anti-social practices), two tax managers from two of the big accounting firms in Nigeria tried to defend their firms against these allegations of anti-social practices by shifting the blame onto the 'mushroom'³² accounting firms when they said that:

'Yes, some accountants operate in the industry who are just after grabbing any accounting related jobs, audit, tax advice and management consulting services for any fees in order to stay in business. In other words, they relaxed the rules and in most cases do not follow the stipulated rate of fees for the same reason which the big professionals firms would not have done'

In the light of the tax managers' claims about the non-involvement of the big firms, the interviewer drew the interviewees' attention to the recent financial misrepresentation by Akintola Williams Deloitte,³³ one of the 'big four' accounting firms in Nigeria. One of the interviewees was reluctant to answer this question, but the other interviewee offered the following defence:

'What you have just said is true but the small-small accounting firms or even the law profession are more prone to all these practices. The young professionals who are still struggling to discover themselves in most professions are collaborators. In this country for example we have more 'brief-case' professionals than those that operate in registered offices across the country, but generally professionals are culprits in these practices in Nigeria'.

Mr. D, a professional banker, was of the view that:

'The professionals are involved because our value systems have increasingly become eroded. Our society thrives on the implicit idea that individual and personal gains are obtained no matter the cost and consequence of such looting. But these individuals failed to realise that life is such that one day they would all leave this ill-gotten wealth. That is why you have quite a lot of national leaders who died and their families do not even know all the bank accounts they have and where such banks are'.

³² Mr. F used 'mushroom' to describe the smaller accounting firms.

³³ Akintola Williams Deloitte (AWD) in two different cases was implicated for account falsification and financial engineering during its audit services to, Afribank plc and Cadbury Nigeria plc (*ThisDay*, 16 October 2006.)

Mr. F, a tax expert, drew attention to the role of professional in the banks. He observed that:

‘There cannot be any perfect financial crime without at least one professional being involved. You know when we say that people are looting the Treasury, it is not possible for them to keep the whole money in their own house, neither is it possible for them to take large sums of money across the border to Western banks³⁴, except through our bankers’ connivance. For instance, former Governors Dariye and Alamiyeigha used local banks to transfer stolen funds to Western banks and their officials have been indicted for their involvement in concealing and laundering the Governors’ loot’.

Mr. F argued that the Federal Inland Revenue Service (Establishment) Act 2007 required financial institutions (banks) to divulge information which they knew to be inimical to the economy, but the reason for non-compliance with the Act was that institutions are interested only in profit:

‘These anti-social practices guarantee them the highest margin of profitability. A lot of banks in Nigeria had made huge profits from round-tripping and money-laundering before they became a great offence in Nigeria (see Money Laundering (Prohibition) Act 2004). It is disheartening, therefore, to see that banks become engaged in money laundering and other forms of corrupt practices despite EFCC and financial institution intelligence units that are monitoring their activities’.

Director 4 was of the view that:

‘The professionals are involved because the government and the politicians use them for personal and selfish interests. Most of these professionals (e.g. accountants) are even serving in government, in politics and in law-making organs of the government’.

The interviewees were asked if they knew of any individual cases which confirmed their views. Although some interviewees declined to mention any individual cases, a number of them mentioned some interesting cases in which professionals had been alleged to have been implicated. Mrs. H, a practicing lawyer, had this to say:

³⁴ The identities of these banks were not provided by the interviewees and neither were they in the public records.

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‘We have cases where bankers have been involved in money-laundering, helping politicians to take money out of the country. But I cannot remember a specific one, there are many of them and the EFCC have been involved in prosecuting a number of them’.

Mr. F cited an anti-social practice involving accountants and external auditors to African Petroleum, one of the Nigerian oil companies, when he said that:

‘You must have heard about the African Petroleum (AP) case. This was an awesome case and there are other pockets of cases which are published in our national dailies. Investigations will now reveal whether professionals were involved or not. You have to remember that out of twelve, there must be a Judas’.

A similar case, involving the former Managing Director of Cadbury, was also cited by Mr. E, a banker:

‘The former Managing Director of Cadbury, Bumi Oni, was accused alongside the company’s accountant of financial impropriety and was sent packing by the board. Essentially, the duo was alleged to have falsified the company’s record of financial statements in addition to tampering with shareholder’s funds’.

Director 1, a former Director of the Federal Inland Revenue Service (FIRS), reluctantly acknowledged the collaboration of tax officials in tax evasion and tax avoidance schemes, but he gave some justification for his position by defending the status quo:

‘This issue of collusion is not easy because we have other sections like inspectors who go around looking at what you have done. It is not all that easy. Maybe on small matters this could be done and, if not discovered, nobody will report it. It is because of the discovery even by the tax officials themselves that reports were made’.

All other interviewees (except Mr. E and Mr. F) declined to mention incidences of professionals (tax officials and accountants) involvement in anti-social tax related practices, but there were cases in which tax officials colluded with taxpayers and even tax consultants to some big corporations in contrast to their professional claims of protecting the public interest. During the interview, Director 3, a tax official, said:

‘I remember a case where one cheque from a company was diverted by a member of staff which was discovered when the company came for

receipt in respect of the payment. It was traced and the culprits were arrested and prosecuted. However, any small malpractices by tax officials which do not involve taxpayers money are dealt with in-house and disciplinary action was imposed on them whereby they were suspended’.

The views expressed by the professionals support the claim that professionals are disposed to engage in anti-social practices, which runs contrary to their claim to be carrying out their obligations and responsibilities according to professional ethical codes of conduct and in the interest of larger society.

5.4 The Views of the Regulators

The views of the regulators (the EFCC, ICPC, FIRS, and SIRS)³⁵ were sought in order to ascertain their views about the professional claims of ethical conduct and protecting the public interest and their involvement in anti-social financial practices. These interviews were conducted because it was considered that the views of this group would help to throw light on the role that professionals and tax officials have played in anti-social practices in Nigeria.

Regulator 1, representing the ICPC, admitted that professionals (such as accountants and bankers) were major links in the conduct of corrupt practices which they had investigated. He said:

‘These professionals are involved in corruption as a result of greed and knowing the intricacies of figures by accountants and bankers while lawyers used their knowledge of law to manipulate cases and agreements’.

Regulator 2, representing the EFCC, also commented that:

‘These professionals have become the mechanism for money-laundering and other related financial crime. They provide the enabling environment for these practices. Professionalism does not really matter, for once you have a lust for money individual integrity is thrown away’.

³⁵ Economic and Financial Crimes Commission; Independent Corrupt Practices and Other Related Offences Commission; Federal Inland Revenue Service; and State Internal Revenue Service.

Although the regulators were unwilling to discuss specific cases, because cases were still being investigated, Regulator 2 gave an example of a case which had involved anti-social financial practices:

‘The recent case involving Cadbury Nigeria Plc and Akintola Williams Deloitte was a practical example of the involvement of professionals in anti-social financial practices. This case involved overstatements of financial statements in the company’s books. That is, it was a case of window-dressing of accounts, [a practice] which is common among professional accountants’.

The tax regulators were also of the views that professionals had played a key role in undermining effective tax collection in Nigeria. Regulator 3, representing FIRS, critically appraised the situation and said:

‘We have in recent times identified that professionals, be it accountants, lawyers and bankers, are the main collaborators in some of the cases you have just mentioned. We have seen cases of accountants who hold the brief for companies to avoid, and even in some cases to evade, taxes through their tax advisory services. In some other cases we have seen where professional accountants or tax practitioners (including lawyers) are employed to defend cases before the Body of Appeal Commissioners which are grossly indefensible’.

Regulator 3 explained further that:

‘The collection mechanism created a ferocious dynamic of criminal creativity and tax scams emerged spawning not a few billions and short-changing the state through the use of fake documents to claim tax credit, suppression and conversion of tax cheques, cloning, round-tripping, laundering and cross-carpeting’.

According to Regulator 3, the sum effect of these practices had led to a considerable underpayment of taxes into government coffers. For instance, recent cases before the FIRS, such as those involving Halliburton and Chevron, had implicated professionals (such as accountants) and tax officials in unethical tax practices. Regulator 4 also stated that:

‘We have seen cases in which taxpayers have accused the tax adviser of misleading them on doing what now seems to be wrong before the law’.

The interviewees were of the opinion that professionals were constrained by the systemic pressure to increase profits, politics, and weak national integrity systems in Nigeria. Such pressure and enduring socio-political environment encouraged professionals to facilitate anti-social financial practices which increased return to capital and elite capital accumulation.

6. Summary and Conclusion

In societies marked by a technical division of expert labour, professionals distinguish themselves from competing occupational groups by drawing attention to the fact that they possess a number of distinct traits or characteristics (Millerson, 1964). Appeals to such idealised self-images and protection of public interest help to solicit trust and legitimise professional power and financial reward. However, professionals do not only trade by appealing to such claims, as they have also shown a willingness to serve as financial intermediaries facilitating predatory practices (see Sikka, 2005). A number of writers have drawn attention to the role of professionals in such practices (Sikka, 2008ab; Bakre, 2007, 2008ab; Otusanya and Lauwo, 2010).

This paper has conceptualised professionals as social actors whose activities are shaped by the social structures in which they operate. It has been suggested that appeals to the professional claim to be 'serving the public interest' may camouflage the capitalist nature of professional organisations, and that professionals are under systemic pressure to increase profits and have sometimes been willing to increase profits through predatory practices (see Sikka, 2008a). The paper also considered the organisational and the social context, in order to understand why professionals prioritise organisational rather than personal and professional values.

Professionals have been implicated in various anti-social practices because there are institutional pressures to increase profits and because organisational and socio-political structures prioritise the best interests of clients rather than the best interests of the public. Thus, in Nigeria the actors' personal interests have been

prioritised above the general welfare needs of the Nigerian people and the development of Nigeria as a whole. There is evidence to show that huge sums of public money have been looted and laundered through a number of accounts in Western countries and within local banks (Otusanya, 2010). The evidence shows that local financial institutions and Western banks have played host to most of the funds stolen and siphoned from the Nigerian Treasury by the political elite. Thus professional financial intermediaries (such as accountants) have acted as facilitators of corrupt practices, and became slaves to the politicians in perpetrating the looting activities of the political elite, possibly for monetary gain, and contrary to the ethical standards of their professions and their claims of protecting the public interest.

According to Sikka, the claims of professionals to be ethical, transparent and knowledgeable is a mere strategy for cementing their social power and for showing that they are acting in the public interest (Sikka, 2008a). The paper has argued that the anti-social financial practices of the economic and political elite and MNCs have been facilitated by professionals (accountants, lawyers and bankers), in conflict with their professional claim to be serving the public interest. This is because the tenets of professionalism appear, at times, to be set aside as opportunities for material gain arise. Thus, behind a wall of secrecy, professionals have facilitated a variety of tax evasion and tax avoidance schemes and have been engaged in corrupt practices in order to increase corporate profits and foster their own financial best interests. However, although anti-social practices are regularly reported in the media and in regulatory pronouncements, the 'dark side' of professional practice has been rarely explored.

In order to understand and know the meaning which people attach to their actions, and their decisions and experiences within their social world, a group of significant others (journalists, NGOs, regulators and professionals) were interviewed in order to solicit their views on tax evasion, tax avoidance and financial corruption in Nigeria. The interviews provided evidence of the perceptions of significant others about the endemic nature of anti-social practices

in Nigeria, their causes and consequences and the role professionals have played in Nigeria.

The findings of this paper show that the economic and financial interests of MNCs, the economic and political elite and the professionals are a strong impediment to the development of the Nigerian state. Anti-social financial practices and their underlying dynamics subvert structured, competitive participation and institutions because public officials and the political elite enjoy wide monopolistic powers and discretion. Furthermore, anti-social practices hinder economic development, reduce social services and divert investment in infrastructures, institutions and social services, thereby forcing ordinary consumers to pay higher prices and degrading the quality of life of millions of Nigerian citizens. Anti-social financial practices also have the capacity to make public contracts more expensive as they increase the cost of doing business. In addition, investors are, and will continue to be, reluctant to invest in development efforts in Nigeria because of the risk that government revenues will disappear into the pockets of the corrupt elite instead of being used for the purpose of providing ordinary Nigerian citizens with access to education, healthcare, clean water and a decent standard of living. Hence, there is need to strengthen the national integrity system in Nigeria to be able to address the weakness in the socio-political environment facilitating anti-social practices.

It is submitted that without disrupting the link between profits and professional rewards and personal penalties for erring professionals that there is little chance of professionals behaving responsibly. It is therefore suggested that the activities of erring professionals should be investigated by independent regulatory institutions in order to document their involvement in anti-social financial practices and for them to be sanctioned appropriately.

To combat anti-social practices and corruption there is a need to educate company executives, policymakers and the public about the human costs of anti-social and corrupt financial practices (such as tax evasion, avoidance), as they

deprive ordinary Nigerian citizens of their human and social rights. The accounting and business literature does not actually alert readers to the fact that some professionals are engaged in corrupt practices to the detriment of society as a whole. The accounting and business literature should reflect the real tapestry of life. The results of this paper have potential policy implications for future economic, social and political development, and for the structure of regulatory bodies and other structures in curbing anti-social financial practices in Nigeria.

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