



## Legal and institutional framework for the fight against corruption in Nigeria: The judiciary in perspective

Takeme Ebikekon Julius

Department of Jurisprudence and International Law, Faculty of Law, Delta State University, Abraka, Delta State, Nigeria

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### Abstract

The thrust of this study is on the concept of corruption in Nigeria. It is important to note that one of the factors militating against the pace of development in any given society is corruption and this has been viewed by different scholars within and outside the legal palace. Corruption has been blamed as the major hydra that has reduced the pace of development in Nigeria to the spread of a sick snail. Based on the devastating effect it has in the country, various scholars have written their diverse opinion on it and this study intends to also highlight the effects in Nigeria with direct focus on the third organ of the government; the judiciary. The aim of research is to examine the legal framework put in place to curb corruption in Nigeria with a view to ascertain their efficacies. To achieve this aim, the researcher adopted the doctrinal research method which deals with the retrieval of relevant materials from primary and secondary sources dealing with the subject under investigation. In the course of the research, the researcher observed that the change in societal values as a result of moral decadence and religious drift have contributed to incidences of corruption in Nigeria. The researcher then recommends that Government at any level must punish anybody found to be corrupt without exception. The study has contributed to knowledge by showing that independent and integrity driven judiciary is synonymous to development.

**Keywords:** Corruption, institutional, framework, judiciary

### Introduction

This research stresses the need to keep the issue of corruption or corruption by judicial officers in check. Corruption is a form of dishonesty or a criminal offence which is undertaken by a person institution or an organization which is entrusted in a position of authority, in order to acquire illicit benefits or abuse power for one's personal gain. <sup>[1]</sup> Corruption is a complex phenomenon that manifests in several forms and ways <sup>[2]</sup> there has been vast increase in the pattern with which corruption is spreading through Nigeria. In recent times this has assumed a different dimension as personal homes of political office holders, politicians, judges have been converted to private banks where huge sums of money; both local and foreign currencies, are buried and exhumed by the operatives of the Economic and Financial Crimes Commission (EFCC).

As it were, this problem called corruption has become more or less a phenomenon; it is evident in almost all fastests of the country where power or money is involved. It can be referred to as the most serious of all the problems facing Nigeria and it affects every individual directly or indirectly. Nigeria as a democratic and federating state is blessed with human and natural resources to the extent that, it is ranked 14th among the best producer of petroleum in the world as at December 2016 producing over 2.2 billion barrel of petroleum per annum. <sup>[3]</sup>

In spite of the huge resources that Nigeria gets from the exportation of crude oil, it is sad to note that it still lacks in modern infrastructure like electricity, portable water, good road, modern airport, sea port, hospital, education, security, postal services to mention but a few. It is even worse to note that although Nigeria has been blessed with crude oil, the price of Premium Motor Spirit (PMS), (AGO) and (DPK) have all skyrocketed above the roof top. Given the rate at which Nigeria has explored and exported petroleum and

other natural resources, the country should have been ranked with the likes of the United State of America, Canada, France, South Africa but instead it lags behind all other developed countries and underdeveloped countries in Africa. That Nigeria is the giant of Africa has since eluded the country.

From the above, it can be summed up that one of the biggest problems of Nigeria which has reduced the country to a toothless bull dog, a sleeping giant is corruption. This hydra headed monster has eaten deep into the fabric of the country and is threatening the very essence of our existence. It has been seen that this ugly worm has shown up in the military, politics, civil service, in government and even private sector. However special attention would be paid to the Judiciary as an arm of government which has been the worse hit in recent times.

There are various reports of Judges taking huge amount of cash to upturn judgement and such raw cash are stalked in different places in different homes in the country reducing the amount of money in circulation and raising the unbanked fund to an all-time high since 1st October, 1960 when Nigeria gained her independence.

Olusegun Obasanjo in the occasion of signing into law of the Independence Corrupt Practices and other Related Offences Commission (ICPC) Act 2000 stated succinctly that; <sup>[4]</sup>

As we all know, corruption is a canker worm that has eaten deep into the fabric of our society at every level. It has caused delay and dereliction within the infrastructure of government and the society in physical, social and human terms. It has been responsible for the instability of successive governments since the first republic. Every coup since then has been in the name of stamping out the disease called corruption. Unfortunately, the cure often turned out to be worse than the disease and Nigerians have been the

worse for it. Nigeria's external image took serious bashing as our beloved country began to feature on top of every corruption index. Also, Owasanoye asserted that <sup>[5]</sup>

To many Nigerians, corruption is a citizen or perhaps a spiritual entity close in nature to Nigerian factor in that it is endemically present while its disciples or children are on the increase and include Nigerians in every facet of life be it public or the private sector, the academia, religious organizations, the military, student body, police, the institutions of traditional rulership etc. It is generally easier to prove that a person is a member of the cult of corruption than for that person to prove that he is not.

According to Akanbi; today, as never before, the level of criminal activities in our country is in the ascendance. Barefaced looting of public treasury; grand and petty corruption are now common day occurrences and they are all committed with reckless abandonment and impunity. <sup>[6]</sup> The result is that our nation which could have been a pride of the black race has been reduced to a perishing nation and in a state of utter helplessness.

The legal icon is of the opinion that many learned great scholars and academicians have churned out great volume of material in the subject of corruption but unfortunately, rather than a reduction in the notorious crime, the menace of rampaging corruption and scudding economic crime has continued to escalate day in day out.

It is important to note that this heinous crime has been condoned by those who wield the political powers and authority. A more disturbing development is the fact that many accused and indicted former Governors and Ministers and senior party officials are still walking majestically around the city with their hats intact. Some of them have managed to work their way back to the corridor of powers and get celebrated. Indeed, they have become power porters and are able to install their disciples into choice ministerial and civil service positions. Thus the vicious circle of corruption is becoming wider and wider and those charged with the mandate to fight it are not finding it easy to carry out their statutory justice. <sup>[7]</sup> This monster has not merely affected the country internally, it has also affected the image of Nigeria in the foreign scene; and the only way that Nigerian can redeem its image, the Federal Government should stop covering-up corrupt officials. <sup>[8]</sup>

From the above, it has clearly shown that corruption has become a way of life in Nigeria. It can be averred that the concept of corruption has been the greatest obstacle militating agent the progress of Nigeria. it has become the road block from where all funds meant for the development of the nation's infrastructure and the wellbeing of Nigeria melt into oblivion. Put in another way, it has become the tunnel for the siphoning of the resources of the country into private bank accounts and never filing pockets of a few Nigeria cabals who have held the nation to ransom, bleeding it almost to death. It is the view of a former secretary to the Federal Government that the only genuine growth we have witness since independence is the growth of corruption as it has not only continued to grow with us but its sophistication and diversification has spirally overtaken that of the larger society. <sup>[9]</sup>

### **Statement of the Problem**

The focus of this work is to examine the effects of corruption in Nigeria with emphasis on the judiciary as an arm of government saddled with the responsibility of

dispensing justice in the society. This work therefore discuss the concept of corruption and the effect it has in the development of Nigeria, it has also beam its search light on the judiciary to establish whether or not it is corrupt and what corruption has done to the quality of our judiciary. It is common place to state that there are instances where justice seems to be put on sale in our courts to the highest bidder. Judges have been claimed to collect huge amount of money to parry justice and deny the poor masses of access to real justice.

Some notable instance where corruption has come to the fore include the case of the former speaker of the House of representative Patricia Olunmi Etteh who was impeached for financial impropriety amounting to N628 million for the renovation and furnishing of the official residence of the speaker of the House. These was also the case involving Otte Odua, the then Minister of Aviation who purchased two bullet proof official vehicles at a whooping sum of N560 million.

Similarly, Hon. Farouk Lawan was also fingered for corruption when he collected huge sum of money on behalf of the House committee on a Dumress mortal Chief Obadola doing the probe of the oil subsidy scandal. The most astonishing and mind-blowing instance was when the judiciary gave a clean bill of health to the former Governor of Delta State, Chief James Onanefe Ibori and absolved him of the 170 count changes of corruption pinned on him by the EFCC. He was later convicted of a 10 count changes of Money Laundering and other fraud to 13 years jail term by Justice Artury Pitts of Snatch Work Crown Court in London, England. This was a major blow on our judiciary which had hitherto found the former Governor a clean bill. <sup>[10]</sup> The problem of this research therefore is "Why is it that corruption and corrupt practices have continued unabated despite all the legal framework put in place to checkmate the menace? This dissertation shall attempt to proffer solutions to it.

### **The Meaning of the Term Corruption**

Corruption is a complex phenomenon that manifest in several forms and ways <sup>[11]</sup> Corruption is a slippery and elusive concept that has defied comprehensive and universally acceptable definition. Corruption has no universal definition. This is because what is regarded as corrupt depends in the actors, profiteers, initiators, how and where it takes place. Corruption being a universal concept is so abstract that one cannot say that corruption is this or that, its elusiveness and abstractness has made its definition to assume a descriptive form to the extent that in trying to define it, one is tempted to refer to acts and omission that may constitute corruption. This has prompted difficulties in ascribing to it a precise definition. <sup>[12]</sup>

Just as many scholars have tried to give their own definition to corruption, it seems that these shades of opinions are coloured by the perspective from which these scholars have looked at the concept. Accordingly the United Nation (UN) has adopted a descriptive approach and stated that acts such as, bribery, embezzlement, illicit enrichment, abuse of office, laundering of proceeds of corruption, obstruction of justice are concept acts. <sup>[13]</sup>

The Black's Law Dictionary defines corruption as; The act of doing something with an intent to give some advantage inconsistent with official duty and the right of others, a fiduciary's or official's use of station or office to

procure some benefits either personally or for someone else, contrary to the right of others. <sup>[14]</sup>

The independent Corruption Practices Commission (ICPC) Act 2000 defines it as “bribing, fraud, and other related offences. <sup>[15]</sup>

The World Bank sees it as;

The abuse of public power for private benefit. <sup>[16]</sup>

Also the Transparency International also defined it as: “The abuse of entrusted power for private gain” <sup>[17]</sup>

Corruption has also been defined as:

“The abuse of public trust for private gain: it is a form of stealing” <sup>[18]</sup>

From the plethora of definitions stated above, it seems that the concept of corruption is very elusive and has defied a comprehensive and universally acceptable definition. As an abstract concept, defining it has only been attempted by the use of description act or omission to a large extent. It is also very relative as what constitute corruption varies according to the standard of measurement.

However, it may be said that corruption has to do with the abuse or misuse of power to acquire personal gains or benefits; it involves the swinging of available resources to the advantage of the person of his cronies. To this extent, a behavior may be termed as corrupt as long as it is used to one’s advantage or to the benefit of an associate. The power so referred to abuse must with authority of the position a person is occupying.

Corruption unlike other offences like, armed robbery, murder, assault, rape is not coded in our laws and this has made its enforcement rather difficult. For example, how do charge a civil servant or a minister or any public person for corruption, what section of the law is it against or contrary to? This is the major reason why most people charged with corruption have leverage on the porousness of the charges to elude the hammer of the law. Until what is clearly defined as corruption and its clear coding in our statute books is succinctly provided for, conviction by the anti-grate agencies will be very difficult as most people have learned in this lacunas to evade justice.

### **Forms of Corruption in Nigeria**

Corruption runs through every level of the Nigerian government. from considerable contract fraud at the top, through petty bribery, money laundering schemes, embezzlement, and seizing salaries from take work. In systemic corruption and grand corruption, multiple methods are used. The under listed are just the few methods.

#### **1. Official Corruption**

Official corruption is common in the public life of the Nigerian society. From the public service to the private sector, there is one form of official corruption or the other. Official corruption includes bribery, extortion, favouritism and sexual demands in abuse of office or fiduciary relationship by a public officer. In bribery, it injures the commonwealth and not the giver of the bribe whereas extortion injures the individual who is made to yield to give it. <sup>[19]</sup> It is made an offence for the protection of the society and not for the protection of persons who pay the bribe or who yield to the extortion. <sup>[20]</sup> In the case of extortion, the judicial officer or the public officer uses his office as a means to extract the benefit. In this case, the giver is most times a victim because the benefit or consideration is not usually given willingly to the receiver. However, in the case of bribery, the giver is usually a party and an accomplice. <sup>[21]</sup>

#### **2. Bribery**

By the provisions of section 98 <sup>[1]</sup>(a) and (b) the Criminal Code Act, <sup>[22]</sup> any public officer (as defined in section 98D) who corruptly asks for, receives or obtains any property or benefit of any kind for himself or any other person or corruptly agrees or attempts to receive or obtain any property or benefit for himself or any other person to give favour in the discharge of his official duty in connection with his duties as a public officer is a guilty of official corruption and he is liable to imprisonment for seven years. Under the offence of bribery, both the giver and the receiver are culpable under the section. <sup>[23]</sup> The receiver of the bribe must be a person in the public service and the offence must involve the act of corruptly giving of a benefit of any kind or a promise to do so on account of a favour from a public officer.

Some corrupt judicial officers engaged in taking of bribe either through their court staff or through legal practitioners involved in the cases before them. Some are even influenced by their fellow judicial officers to influence the outcome of the case in favour of the giver of the bribe. This act undermines the integrity of the judiciary because it makes the public to erroneously believe that justice is for sale.

#### **3. Extortion**

Under the offence of bribery, the payment of the benefit in return for the favour to be received or shown is done willingly without any coercion or threat. However, there are situations where a public officer may use the power or influence of his office to take money or such other benefit which ordinarily the giver will not part with if there was no threat on the part of the public officer or if he knew the true facts. <sup>[24]</sup> The philosophy behind this section is to condemn the conduct of a public officer who takes advantage of his position to extort money from members of the society because such conduct from a person in position of a public trust is reprehensible. It is meant to instill public confidence in public service and the society.

It is argued that the offence of extortion as it relates to judicial officer can even deny a defendant bail even in bailable offences or adjourned an application for bail in simple offences to much later date for consideration or ruling. The agent of such judicial officer may approach either the defendant or his relatives to meet the terms of the judge or magistrate to enable the defendant regains freedom. Under, extortion, a judicial officer may refuse to exercise his discretion until his demands are meant.

Corruption in the judiciary is not limited to judicial officers. Even judiciary staffs are also involved in corrupt practices in the judiciary. Judiciary staffs make demands for money from lawyers and litigants to perform their duty. In most cases, lawyers and litigants yield to such demands. <sup>[25]</sup> Judiciary staffs extorts money from lawyers and litigants in the guise of buying files for their cases on the ground that no more space to write the endorsement or that the existing file is torn and worn out. Some extort money to look for case files. Some extort money to enroll orders made by the courts. The amount of money being charged by some court staffs on compilation of record of appeals discourages layers and litigants from proceeding on appeal to appellate courts.

The law also encourages corruption in judiciary. An example is the rules of the High Courts. The rules of high Court particularly the Delta state High court (Civil

procedure) Rules, 2009 provides that a party desiring or seeking the service or execution of any process shall be responsible for the cost of the service or execution. The bailiff or sheriff shall not be bound to serve or execute any process unless the fees and reasonable expenses thereof must be paid to him <sup>[26]</sup> Bailiffs of the courts take advantage of this provision to extort money from lawyers and litigants to have their processes served or executed. The rule did not provide for the cost to be paid to the bailiff. The rule did not also define the phrase 'reasonable expenses'.

A bailiff can charge and collect N100,000.00 to leave Delta State to effect serve of court process or processes in Abuja or Lagos depending on the ability of the lawyer or the litigant to pay. The fees and the reasonable expenses for the service or execution must be paid to the bailiff or sheriff before he embarks on the service or execution. In other words, where a litigant or a lawyer fails to give money to bailiff or sheriff to have his processes served or executed, the bailiff or the sheriff has the right not to effect the service or the execution. In other words, judiciary staffs are by the law encouraged to engage in extortion because the cost and reasonable expenses is not willingly given by the litigant or the lawyer. Judicial corruption poses a serious problem in Nigeria.

#### **4. Abuse of Office**

Abuse of office is an offence under the Criminal Code act. <sup>[27]</sup> Any person who being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanor and he is liable to imprisonment for two years. The essence is to preserve the dignity, confidence and trust of public office by public servant or officials. It is argued that the offence of bribery and extortion are also part of abuse of offence.

#### **Grand Corruption**

This type of corruption takes place at the highest level of government and it involves huge amount of funds being moved from one location to the other. It always or in most cases has a foreign flavor as huge funds are moved from the country and are stashed away in foreign banks. A typical example is the Abacha loot which involves the movement of so much cash across the Nigeria borders to foreign banks such as bank in the United Kingdom, United State, France and Switzerland and recently to Dubai and United Arab Emirate.

This type of corruption is usually by the action or the omissions of leaders of the societies. <sup>[28]</sup> Another examples is the conviction of Chief James Onanefe Ibori, a former Governor of Delta State by Justice attorney Pitts of the Southward Crown Court in London, sentenced to 13 years imprisonment after engaging in a fraud worth about \$250 million. <sup>[29]</sup>

#### **Institutional Corruption (Ivory Tower Corruption)**

this type of corruption takes place within the four walls of our higher institutions of learning, like the polytechnics, colleges of Education and Universities. Here all forms of corrupt practices ranging from sexual harassment to outright collection of money from students and inflation of contract prices by people in authority. There are also instances of examination malpractices and nepotism. These unwholesome practices are all examples of using official positions to attract benefits or gains to the advantages of others, a thorough breed or corruption.

#### **Religious Corruption**

Religion had also been bedeviled by corruption. This type of corruption usually takes the form of siphoning funds collected in the church for the personal benefit of the leaders of the church especially the General Overseer as they are usually called.

This type of corruption which is hitherto alien to Nigeria has been in the increase in the past four years, General Overseers are now owners of choice properties, universities and worst still, they now own private jets while their foot soldiers, the branch pastors are paid meagre salaries without proper healthcare, yet they are the hen that lay the golden eggs; always gathering different types of offerings and sending same to the headquarters; what an exploitative tendency. The juicy nature of churches has led to the outburst of churches in every street of our towns, on every uncompleted building, thereby increasing the rent of houses in most of our cities. The church is now one of the highest bidders in the quest to purchase choice properties. What an irony of life.

#### **Moral Corruption**

Corruption was defined earlier as dishonesty and illegal behavior by people in authority or power. <sup>[30]</sup> It therefore presupposes that every behavior which is not in tandem with the expectation of the society is condemned by society. This includes morally unacceptable behavior such as cultism, armed robbery, rape, prostitution, stealing, to mention just a few. There is a correlation between these unacceptable behavior and corruption in the sense that a morally bankrupt person is most likely to commit corrupt practices. The emptier a person is in term of moral, the more prone he will be to carrying out sharp and corrupt practices.

#### **Petty Corruption**

This covers corrupt practices usually associated with lower levels of public and private office holders. <sup>[31]</sup> These people create artificial bottleneck especially at public service points such as tax officers, motor licensing offices and passport issuing offices. <sup>[32]</sup> There are those who indulge in these acts to enable them survive. They usually ask for gratification before performing their legitimate duties. They usually play such pranks and hiding of files, causing unnecessary delays and carrying their functions in the most bureaucratic way.

In most ministries and parastatals, they include the secretaries, messengers, low clerks, security men, cabinet staff, etc. They are the low income group but very important by nature of their job functions.

#### **The Judiciary in Nigeria**

The judiciary is the branch of government invested with the judicial power; the system of courts in a country. The body of judges, the bench, the branch of government which is intended to interpret, construe and apply the law. <sup>[33]</sup>

In Nigeria, the judiciary is the third organ of the government. it is that branch or government that is given the responsibility to interpret the law and apply it. It consists of all the courts and the entire judicial system with the responsibility of the adjudicating of the law with the court as it machinery and also collaborating with other agencies such as the police, the prisons, lawyers etc, to dispense justice. The Nigeria judicial system composes of the Body of Benchers and the Bar itself.

The judicial branch consists of the Supreme Court of Nigeria, the Court of Appeal, the High Court and other trial court such as the magistrate, customary Sharia and other specialize courts. The National Judicial Council (NJC) serves as the independent executive body insulating the judiciary from the executive arm of government. the Supreme Court which is the highest court in Nigeria is presided over by the Chief Justice of Nigeria and thirteen other associated justices who are appointed by the President of Nigeria on the recommendation of the National Judicial Council. These Justices are subject to confirmation by the Senate.

### **Function of the Judiciary**

It must be conceded and addressed that there is a severe crisis of confidence in the judicial arm of government. do the courts meet the expectation of the people in the discharge of its primary responsibilities? The answer is obviously in the negative. The general concern is that the corrupt elements in the judicial system and the Bar have given the entire sector an almost irredeemable had name.

According to Dr. Joe Okei Odumakin, the president of ‘Campaign for Democracy’;

There have been charges of corruption against the judiciary over the years. There was the justice Kayode Eso Panel which probed allegation of corruption in the judiciary and returned a damaging verdict detailing sordid cases of corrupt propitices of some judges. It was on the bases of that some judges were knocked out of the judiciary. All those have proved that the judiciary has not been integrity driven.<sup>[34]</sup>

Judicial corruption is when an official of the judiciary i.e judges, fall short of the standard of integrity and the course of justice is prevented for material gain. In this regard, corruption is to be found in the personnel concerned with the administration of justice from the lowest rung of the ladder to the position of high judicial officers, from the registries of court to the living room of justices.<sup>[35]</sup>

The integrity of the Nigeria judiciary was also called to question when a review of the case concerning the former Delta State Governor, Chief James Onanefe Ibori by a Federal High Court Asaba was carried out. It could be seen from that case that out of the 170 court charges of corruption preferred against him by the Economic and financial crime commission (EFCC0, the trial judge Marcel Awokulehim, dismissed the case stating that the EFCC’s case was unnecessary and inappropriate. However, when the governor was extradited to London, he was arraigned for charges of corruption and money laundering. Subsequently he was promptly found guilty and sentenced to 13 years jail term on account of 10 count charge. The trial and conviction by Justice Anthony Pitts of Southward Crown Court in London England, of a person given a clean bill in Nigeria earlier is an indictment on our judicial system; confirming it that all is not well in the system.

Another issue in which the judiciary had been tainted is the issue concerning the suspension of the President of the Court of Appeal, Justice Ayo Salami by the former Chief Justice of Nigeria, Justice Katsina Alloysius. This issue centered on the Sokoto State Governorship Election Petition case in 2006. It was on record that at the point the court of Appeal was to give its judgment, crises erupted which letter developed in an imbroglio. Justice Salami in a swarm affidavit told the court that Justice Katsina hard asked him

to compromise justices in respect of the Sokoto case, a move he objected to. He claimed that the defendant asked him to disband the panel setup for the appeal on the excuse that if the panel allowed the appeal, and remove the governor, the multiplier effect would lead to the removal of the Sultan of Sokoto.

What followed was a barrage of attack on each other and at the end, the President of the court of Appeal was suspended by the authorities, this culminated in the retirement the justice.

### **Judicial Corruption and its Perception in Nigeria**

That corruption has also find expression in the judiciary is a mere banality. It could be seen from the pretrial of issues cited above that corruption has eaten deep into the judicial system in Nigeria.

A situation where politicians declare in public after fraudulently winning an election that “lets meet in court”, “we will win in court also” “The court is out own court”, “we are in government, so nothing will happen in court, etc are pointers to the fact that the politicians have a lot of influence over the court. So why is the judiciary so corrupt? The reason for this would be x-rayed below:

#### **1. Greed and Tolerance for Corruption**

The unbridled desire to accumulate wealth is a culture that has permeated every facet of the Nigeria society. The need to amass wealth has been stamped into the mind of every working Nigerian, to the extent that civil servants have abandoned due process and elected to participate in various forms of corruption practices to acquire wealth. It is sad to note that the society still has tolerance for corruption as those who have accumulated wealth through fraudulent means are applauded and celebrated and allowed to walk away free. These fellows are either not punished or where they are punished; they are given very light punishment and are soon re-integrated into the main stream of economic and political nexus.<sup>[36]</sup> Nigeria should declare a zero tolerance in corruption and desire for celebrating those convicted. A more recent case was the heroic welcome given to former Delta State Governor, Chief James Onanefe Ibori, when he return to Nigeria after serving his jail term in London, England.

According to Mr. Tunji Abayomi, the judiciary is manifestly corrupt, he gave instance where a judge ordered a stay of execution in a decision a court has granted execution where the judgment debtor broke the claim and went to court to file for the stay of execution. According to him, the second judge collected the sum of three hundred thousand to order the stay of execution.

#### **2. Undue Influence**

Another reason why the judiciary is corrupt is as a result of the inducement reward by them from various sector of the society especially the government, political parties, formally, churches, peer group associations, other gender groups etc.

One very sad instance was the brutal killing of a former, Chief Justice of the Federation which was been investigated and proceeding has started but when the ruling government saw that cans of warms were going to be opened, the executive sent the Attorney-general of the Federation to plead nolle prosequi on the case and naturally the case died a natural death. In another case relating to the Sokoto State Governorship case, it was on record that justice Salami, the

President of the Court of Appeal, stated in his affidavit that the CJN is putting pressure on him to pervert justice.

The plea Bargain that enabled Chief Lucky Igbenedion and Former CEO of the Oceanic Bank, Mrs. Cicelia Ibru to get a light sentence and escape the full weight of the law for their corrupt acts cannot be far from a case of undue influence on the judiciary. Other people who have cases of corruption and yet walking freely as a result of unending adjournments are;

- a. Joshua Darige Plateau State a Former Governor now a Senator
- b. Sani Yerima Former Governor of Zamfara State
- c. Danjung Gole Former Governor, Gombe State.

### 3. Nature of Appointment of Judges

by virtue of the provision of the Constitution of the Federal Republic of Nigeria of 1999 as amended, the appointment of the Chief Judge of Nigeria is done by the President on the advice of the Nigerian Judicial Council and confirmed by the Senate.<sup>[37]</sup> Like the saying goes, “he who pays the piper dictates the tune”. As the appointment is made by the President and Governor for Federal and State respectively, they tend to have a reasonable measure of influence on the judiciary as they tend to be loyal to those who appointed them.

### 4. Sexual Corruption

There are instance where female are employed into the judicial system by justice who in turn have sexual relationship with them. Once this type of relationship subsists it can form a reasonable ground for corruption as these judges bow to the supplications of these female staffs.

#### The Code of Conduct Tribunal

The CCT is a creation of paragraph 15<sup>[1]</sup> of the 5th Schedule to the Constitution and section 20<sup>[1]</sup> of the CCB and Tribunal Act. The Tribunal consists of a Chairman and two members.<sup>[38]</sup> The Chairman must be a lawyer of not less than ten years post call. The Chairman and the members of the tribunal are appointed by the President of Nigeria. Before the appointment, he must have been recommended to the President for the appointment by the NJC<sup>[39]</sup> the Constitution and the Act did not give power to recommend the removal of the Chairman and members of the Tribunal to the NJC. It rather vests the power of removal in the President when the National Assembly passed a resolution or an address for his removal. The address must be supported by two-thirds majority of each House of the National Assembly praying that the affected judicial officer of the Tribunal be removed for inability to discharge the functions of the office on ground of infirmity of mind, body, misconduct or for breach of the Code of Conduct.<sup>[40]</sup> In other words, the Tribunal is not subject to the disciplinary control or otherwise of the NJC neither answerable to the Council but appears more to be a Tribunal of the executive to which it is responsible.

The Tribunal has the exclusive jurisdiction to try punish any public servant who breaches the provisions of the Code of Conduct and the Act.<sup>[41]</sup> Where the Tribunal adjudged any public officer guilty of contravention of any section of the Code and the Act, it can mete out any of the following punishments without prejudice to the punishment the law may impose.<sup>[42]</sup> The punishment include:

- a. vacation of office (whether elective, nominated or appointed, whichever is the cases).

- b. banned from taking any official position in government for a period not more than ten years; and
- c. any property he acquired in abuse of the office or arising from the corrupt practice may be seized and forfeited to the State.

#### The Code of Conduct Bureau

The Constitution<sup>[43]</sup> and the CCB and Tribunal Act created the CCB.<sup>[44]</sup> The essential purpose and philosophy of the Bureau is to ensure that a high standard of morality is maintained in the affairs of government. also, it is meant to guide attitude of public officers to ensure that they conform to the highest standards of public morality and accountability in the conduct of government’s affairs.<sup>[45]</sup> The duties of the Bureau include ensuring compliance with the code of conduct and to implement the provisions of the code of conduct or interrogate complaints on non-compliance in respect of breach of the code of conduct.

It also has the duty to examine complaints and in appropriate cases, take such matters to the Tribunal known as Code of Conduct Tribunal.<sup>[46]</sup> The essence of the Bureau is to curtail corruption and fraud in public office. However, in practice, there are public officers who make false declarations and the Bureau is unable to verify the declaration of assets so declared in the asset declaration forms or inability to ensure compliance.<sup>[47]</sup> It is, therefore argued that there is need for the Bureau to strengthen or enlarge its staff to enable it to carryout search and compliance with the code of conduct. The Bureau should also try to live to expectation by ensuring that every form submitted to it is verified to ascertain the veracity of such declarations made by public officers.

#### Conclusion

The study has taken a deep look into the concept of corruption and discovered that corruption has eaten very deep into the fabric of this country and has reduced development almost to a vanishing point. It can be pointed out from this work that the judiciary which is the third organ of the government had also been badly hit by the wave of corruption as some of the members of the bench have been fingered to have turned the comfort of their residential homes to banks and hideouts from where so much raw cash had been recovered. This ugly situation was uncovered by the act of the men of the Department of state services (DSS) and the police. Although some of the operations were frustrated, it is on record that huge Sums of currency (both local and foreign) have been recovered through these operations. There was various criticism that trailed this mode of recovery which some people have termed Gestapo-style, crude, assault, naked show of brute force, to mention a few. The study discovered that change in societal values as a result of moral decadence and religious drift have contributed to the incidences of corruption in Nigeria. The study recommend that parents should install in the heart of their children the right moral and religious values so as to rid the mind of the wrong value of saluting corrupt practices.

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  36. Example is the former speaker of the National Assembly, Salisu Bruhari who was convicted for foraying but later gained a political appetent.
  37. Section 231 of the 1999 Constitution of the Federal Republic of Nigeria as amended.
  38. Paragraph 15(1), Fifth Schedule, CFRN, 1999 (as amended) and Section 20(2), Code of Conduct Bureau and Tribunal Act, Cap. C15, LFN, 2004.
  39. Ibid Paragraph 15(2) and (3); Section 20(3) and (4).
  40. Ibid Paragraph 17(3) and Section 22(3).
  41. In Adamu v FRN (2018) LPELR – 46029(CA), The Court of Appeal per Jauro JCA, held that at this juncture, I deem it necessary to refer to the case of Ekperokun v University of Lagos (2004) 16 WRN 90 at 132 lines 32 – 36 where the apex Court per Obaseki state thus "A determination of guilt under the Code of Conduct is not within the original jurisdiction of the Court or any other Court of law except the Code of Conduct Tribunal and an appeal from such determination lies only to the Court of Appeal. In Ahmed v Ahmed (2013) 15 NWLR (pt. 1377) 274 at 329, the apex Court held, per Chukwuma – Eneh, JSC" ... the foregoing provisions are clearly unambiguous and construed literally mean that any breaches of any provisions of the said 5th Schedule or matters of non-compliance with any provisions of the Code shall mean that it is mandatory that it must be made to the Code of Conduct Bureau that has established its Tribunal with the exclusive jurisdiction to deal with any violations of any provisions under the Code ... The lower court therefore lacked jurisdiction to convict under the Code of Conduct Bureau and Tribunal Act.
  42. Paragraph 18(1),(2) and (3), Fifth Schedule, CFRN, 1999, as amended; section 23(1), (2) and (3) of the Code of Conduct Bureau and Tribunal Act, Cap. C15, LFN, 2004.
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