

POWERS OF ECONOMIC AND FINANCIAL CRIMES COMMISSION DEPARTMENT FOR STATE SECURITY SERVICE AND PROSECUTION OF SERVING JUDICIAL OFFICERS

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Abstract

In all civilized societies, governance is based on a tripartite structure mainly to achieve success and ensure accountability. Nigeria as an independent sovereign state in the West African sub-region is not exempted and operates her state with three arms of government created under the 1999 Constitution of Federal Republic of Nigeria as amended in 2011. The arms are vested with the powers and functions of law making (legislature) implementation of the laws made (executive) and interpretation of the laws (judiciary). Each of the arms of government above act as a watch dog over the activities of the other and through this sanity can be maintained in polity. However, where any of the arms abuse its powers, the impact is usually negative and devastating. The judiciary arm of the government of Nigeria has recently come under serious attack nationwide and the judicial officers both in the lower courts and the appellate courts of records have been accused of corrupt practices, bribery, self enrichment and fraudulent obtaining of benefits under the disguise of employment and others. The issue of the decay in the Nigerian Judiciary became so controversial that at a point it was seen as a phenomenon. However, in 2017 the executive through its two agencies, the Economic and Financial Crimes Commission and the Department for State Security in answer to the popular call by many Nigerians over the corruption in the Judiciary damned the consequences and effected the arrest and investigation of serving judicial officers in Nigeria and for the first time Nigeria commenced prosecution of serving judges on various allegations of crime and other acts seen to be misconduct of such officers in discharge of their official functions. This paper among other things aimed at reviewing the powers of Economic and Financial Crimes Commission and Department for State Security to arrest, investigate and possibly prosecute serving judicial officers in Nigeria for acts committed in discharge of their official duties within the laws creating the agencies and the Nigerian Constitution. From the study, it is our findings that under the law in Nigeria, serving Judicial Officers can be arrested, investigated and prosecuted for any of their act which is criminalized by any written law in Nigeria.

Keywords: *judicial officer(s), judicial misconduct, crime, extravagant life style.*

(1) Introduction

The increasing spate of judicial corruption in Nigeria has of late generated a lot of concern within Nigeria and at the International level. This menace has not only left a serious stain on this all important arm of government of Nigeria but has also become a negative blow to the country's reputation abroad. It is observed that this evil in the Nigerian judiciary is overwhelming and cuts across all levels of courts in the land including the lowest court to the Supreme Court which is the highest court of judicature in Nigeria.

As the ugly trend continued, the masses raised alarm in its condemnation. Even the government at one time or the other showed concern but demonstrated lack of will and commitment to

address the issue. Civil society groups and non-governmental organizations as well as professional bodies like the Nigerian Bar Association have also stood against this vice all to no avail.

However, what seems to have become the most successful and boldest affront to the wroth in the Nigerian judiciary is the unexpected but belated arrest, investigation and prosecution of serving judicial officers in different superior courts of records in Nigeria in 2017 by officers and men of Economic and Financial Crimes Commission and the Department of State Security Service on allegation of offences including what the security agencies regard as living extravagant and flamboyant life style by judicial officers. Much as the arrest of the Judicial Officers by the security agencies was received with loud ovation in many parts of the country, there is a controversy in the polity as to whether the Economic and Financial Crimes Commission and Department for State Security Service have the enabling legal powers under the law in Nigeria to arrest, detain or otherwise prosecute the judicial officers. While some anti corruption activists including lawyers are of the view that the judicial officers can be arrested, investigated and be prosecuted if a prima-facie case is established against them by the law enforcement agencies above, other commentators argue that the arrest, detention and prosecution of the serving judicial officers in Nigeria amounts to an indirect takeover of the functions of National Judicial Council whose duty it is to sanction erring judicial officers in Nigeria. This two opposing views has led to a dilemma in the state hence the need for a study of this nature to examine the law as it is on the issue in Nigeria and arrive at a definite ad concrete legal position on the matter.

In attempt to deal with this topic, the paper has been broken into subheads namely the general introduction, definition of terms and their descriptions, method, results and findings and the discussion which highlights among others the state of the law over the unlawful acts of judicial officers in Nigeria, powers of investigation and prosecution of Judicial officers by Economic and Financial Crimes Commission and the Department of Security Service in Nigeria, Powers of NJC to discipline erring judicial officers for misconduct committed in the discharge of their duties, factors facilitating corruption and misconduct among judges in Nigeria and lastly the conclusions. The major terms that need some explanations so that this discourse will be adequately understood include judicial officer, public officer, official corruption, official misconduct, extravagant life style and crime. The rationale behind the conceptual definition of the words is to avoid misinterpretation and to effect and give meanings to them as most ideas are value based.

(i) Judicial Officer

A judicial officer is a person holding an office of trust and honour. Such a person occupies a position for which there is a high expectation of honesty, integrity and discipline. Black's Law Dictionary defines a judicial officer to mean a person who holds an office of trust or authority or command in the judiciary¹. From the definition given by the Black's Law Dictionary, it is evident that a judicial officer occupies a critical and strategic position in the society especially as

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¹ Black's Law Dictionaryonline.com (accessed 2/3/2018)

it relates to courts. Our court is seen as the last hope of the common man and if it is so, much is expected from the heads of such courts as any of their actions or steps will have a significant impact on the life of the people as well as the stability of the community.

With reference to the constitution of the Federal Republic of Nigeria, a judicial officer is a person or an individual holding a judicial office². In Nigeria, such judicial offices include office of the Chief of Justice of Nigeria, office of the President of the Court of Appeal, office of the Chief Judge or a judge of the Federal High Court as well as that of the states in Nigeria and others listed in the Constitution. Our candid view therefore is that the position of a judicial officer is an enviable position in the society built on a high sense and level of trust and integrity which should be devoid of any questionable behavior.

(ii) Public Officer

The Interpretation Act is specific on who is a public officer. In the words of the Act, a public officer in Nigeria is a member of the public service of the Federation within the meaning of the Constitution of the Federal republic of Nigeria³. The meaning extends also to a member of the public service of any of the states in Nigeria. A look at the Interpretation Act reveals that any person who is in the public service of Federal or State government in any part of Nigeria is a public officer.

A public officer by the provisions of the Constitution of Nigeria is a person or an individual who holds any of the offices listed or named in Part II of the Fifth Schedule of the constitution⁴. Among the individuals and offices mentioned in Part II of the Constitution above is the offices of the Chief justice of Nigeria, President and justices of the Court of Appeal, Chief Judge and judges of the Federal High Court, that of the states and others. The persons holding such offices listed under the said schedule of Nigeria constitution as public officers have a Code of conduct which prescribes the things they are expected to do and others they are prohibited from doing as a result of the position they occupy. From the foregoing, it is clear that a judicial officer is a public officer within the cardinal law of the land and much is expected from him and as a public officer cannot be protected by law when he does an act that is illegal.

It is also of note that a public officer or public official has been given a similar meaning or definition under the Criminal Code Act and is referred to as one or a person employed in the public service and include or refers to a judicial officer⁵. It is our view therefore that once a person sits in a public office discharging official duties, he is indeed in law a public officer and a judicial officer no doubt is one such officer.

(iii) Official Corruption

Official Corruption refers to an act or acts which has unlawful or depraved motive and is usually influenced by bribery. The individual inviting the bribe and the person invited or the giver are all parties and are engaged in corruption. The act of official corruption injures the society badly as it

² . Part iv, Section 318 of 1999 Constitution of the Federal Republic of Nigeria as amended in 2011.

³ Section 18 of Interpretation Act, C23 Laws of Federation of Nigeria, 2004

⁴ Fifth Schedule, Part II section 19(5) of the 1999 constitution of Federal republic of Nigeria as Amended in 2011.

⁵ Section 98D of criminal code Act, C38, 2004.

weakens the values of discipline, honesty and integrity among the people. Official corruption by our law involves asking for, receiving or obtaining property or benefit corruptly for oneself or for another person in the exercise of one's official duties⁶. It also include the act of asking for reward or benefit by a person or persons in public service in the discharge of his or their duties beyond their expected pay or salary⁷. From the above, it can be understood that official corruption means unlawful action of a public officer intended to make benefit using his position beyond what he is entitled to.

By extension too, any public officer who engages in doing an act or acts which he is not required to do in the code of conduct for public officers or fails to do the things expected of him is without doubt engaging in official corruption and such persons referred to by the Code of Conduct include judicial officers⁸.

(iv) Official Misconduct

Misconduct means a bad behavior by a person holding a high office. It refers to behavior that is generally unacceptable in the eyes of the community or public. The Meriam Webster Dictionary defines misconduct as a wrong behavior or as an activity that is illegal or morally wrong⁹. The word misconduct also means the act of mismanagement of government responsibilities, intentional wrong doing or violation of law. It may also be described as an act of improper behavior. Black's Law Dictionary also see misconduct as intentional wrongful behavior and corrupt violation of assigned duties by a public officer¹⁰. Official misconduct therefore simply put means wrongful behavior or violation of a law by a public officer or public official. The act of such official or officer is recognized as misconduct. Under Section 19 of Part I of the Fifth Schedule of the Nigerian Constitution, the word misconduct means violation of oath of allegiance or oath of office of a member or violation of the constitution or misconduct of such a nature which amounts to bribery and corruption.

It is our considered view that by the combined reading of the constitution of Nigeria and the constructions from the meanings in the above dictionaries, official misconduct refers to wrongful intentional behavior by public officers or violation of law by them which amounts to or include bribery and corruption in discharge of their official duties. Such acts by the officers are therefore prohibited not just by the constitution which the officers have taken oath to uphold and defend but also by other laws, legislations and enactments in the land.

(v) Extravagant Life Style

Extravagant lifestyle means the same thing with living a flamboyant lifestyle by a person. According to the Meriam Webstar Dictionary, flamboyant or extravagant lifestyle means having a noticeable quality attracting attention. It means the attitude of a person or an individual which in the public sphere of life attracts attention or generates a lot of public attention or concern. The word extravagant or flamboyant life connotes negativity in the eyes of the public, showing off

⁶ Section 98 (A, B, C) of the Criminal code Act C38, 2004.

⁷ Section 99 of the criminal code Act C38, 20014.

⁸ Part I and II of 5th schedule of 1999 constitution of Federal Republic of Nigeria (Supra)

⁹ Part I and II of 5th schedule of 1999 constitution of Federal Republic of Nigeria (Supra)

¹⁰ Black's Law Dictionaryonline.com(accessed 4/3/2018)

and trying or attempting to be more recognized and respected or to be seen as much important than others.

(vi) Crime

A crime is an act punishable by a written law. It also refers to an omission to do an act which the law compels one to do. Black's Law Dictionary defines the word crime to mean an action or step taken by an individual which the law of the land makes it sanctionable. It also defined crime as a default of a duty created by law which is capable of criminal trial or procedure. From the above, it is evident that where an act is contrary to a written law or the doing of such act is prohibited or its omission is punished, such act amounts to a crime and is by law held as so.

5. Discussion

The law seems to be clear in Nigeria that judicial officers like other citizens are not above the law of the land. Thus, a judge or the judges are expected while discharging their constitutional duties to work within the confines of the law. Anything short of this is an affront of the law. A judicial officer upon appointment takes oath of office which among other things is his undertaking to uphold the constitution and obey the laws of the land. There is a code of conduct and code of Ethics for judicial officers which extends to other public officers in the Federal Service and that of the states in the country¹¹. From the provisions of the constitution of Nigeria, a judicial officer as a public officer is bound by the code of ethics for all public officers¹².

An allegation of receiving gift or benefits in kind or accepting property or benefit by a judicial officer in the discharge of his duties is not only a breach of his code of conduct as a public officer but is also a misconduct in the eyes of the law which no doubt attracts sanctions¹³. A look at the provisions of the Criminal Code Act of Nigeria show clearly that the said Act criminalized the act of giving, receiving of bribes by public officials as well as invitation of bribes. The same thing applies to taking, asking or accepting of reward by such public official(s) beyond his pay or emoluments¹⁴. The judicial officer within the contemplation of the Criminal Code Act is a public official¹⁵. It is also imperative to observe that the act of receiving or accepting gift or benefits or property by judicial officers which amounts to misconduct and a breach of code of conduct under the Constitution and which has also been criminalized as official corruption under the criminal code Act can also be described as a financial crime which nonetheless is a threat to national security if not checked. In the light of the above, it is evident that the law in Nigeria is rich with tacit provisions to check the acts of the judicial officers both in his status as a citizen with other citizens and his capacity as a judicial officer occupying a vantage position in the administration of justice in the state in which high degree of integrity is expected from him/her as his step and decision on any issue not only affect the masses but the entire polity.

¹¹ Part I, 5th schedule of 1999 constitution of the Federal Republic of Nigeria, (section 6(1) of the schedule.

¹² Part II 5th schedule of same constitution (section 5).

¹³ Section 292(1) (b) of 1999 constitution of the Federal Republic of Nigeria as amended in 2011.

¹⁴ Section 98 (A) and (B) and section 99 of criminal code Act, cap c38, 2004.

¹⁵ Section 98D of the Criminal code Act cap c38, 2004

Having looked at the laws in Nigeria as it relates to acts of judicial officers, it is necessary to examine what the laws said or are saying on the powers of the two agencies – the Economic and Financial Crimes Commission and Department of State Security Service to investigate and prosecute Nigerian judges for acts committed by them. The EFCC is established by the EFCC (Establishment) Act of 2004 to do a range of things including investigation and prosecution of persons involved in financial crimes¹⁶. In addition, the commission is also vested with special powers under the Act including without being limited to causing investigation to be conducted into the properties of any person if it appears that the person's lifestyle and extent of properties are not justified by his source of income and to coordinate other agencies for enforcement of any other law or regulation relating to financial crimes in Nigeria¹⁷. Similar provisions and powers of investigation has been vested on the Department for State Security Service by the Act creating the agency¹⁸. From the above, it is clear that the two agencies can collaborate with each other in the discharge of their duties created by law and may also work in synergy with other agencies. When the EFCC and DSS commenced the arrest, detention and investigation of judges in 2017, many judges were arrested.

The seven judges were however granted administrative bail preparatory for their formal arraignment in court¹⁹. The arrest of the judges became a public debate. While some saw it as a welcome development as nobody is above the law, others including senators condemned it as being an action taken too far and have dented the image of the country outside. The Socio-Economic Rights and Accountability Project (SERAP) also supported the arrest and threatened a legal action against the Chief justice of Nigeria and his National Judicial Council if the judges concerned were not reported to EFCC and the Security agencies for investigation and prosecution²⁰. The Nigerian Bar Association also backed the arrest of the judges which was described as “Sting Operation” by the Department of State Security Service²¹. It is no longer news that the National Judicial Council later bowed to the pressure by Nigerians when it resolved and directed judges investigated to step aside pending their trial. The question that calls for answer is whether the security agencies had the powers to do what they did. It seems glaring now that the law in Nigeria is settled which is that both the EFCC and the DSS have the powers to investigate crimes committed by any citizen against the state including the judges (outside their service as judges).

Interestingly, the judges were arrested and investigated for what the agencies regarded as their involvement and complicity in corruption. Corruption is an offence within the provision of the criminal Procedure Act and also amounts to financial crimes under the EFCC Act²². A close look at the allegation against the judges show that their acts are offences pertaining to official corruption which not only amounts to a misconduct in discharge of their duties but is also

¹⁶ Section 6(a) (b) of the EFCC Act, 2004.

¹⁷ Section 7(1) b and (2) (f) of EFCC Act, 2004

¹⁸ Section 3(a) and (c) of National Security Agencies Act No. 19, 1986.

¹⁹ Vanguardonline.com (accessed 12/3/2018).

²⁰ *Ibid.*

²¹ *Ibid.*

²² Section 6(1) a, b, c and Section 7 (1) (b) and (f) of EFCC Act and section 3 (a) (b) and (c) of National Security Agencies Act

contrary to code of conduct for public officers in Nigeria which they are one²³. The judges are also being accused of living extravagant and flamboyant life which to EFCC they have special powers to investigate such act under Section 7 of the Act.

Whereas the security agencies have the powers to arrest and investigate judges for acts relating to official corruption committed in discharge of their duties as well as acts committed outside their position as judges, there seems to be a rider or proviso that restrict the arrest of judicial officers for their acts relating to corruption which is enshrined under section 98c of the Criminal Code Act which states inter alia. 98(C) 1 “A Judicial officer cannot be arrested without warrant for an offence under section 98, 98A or 98B of this code.

For clarity, offences under the said provisions touches on taking, receiving or accepting bribe, gift, and benefits in the discharge of official duties of the judicial officers concerned. So, if any of the acts under the foregoing sections have been committed by the judge or judges, the concerned agencies cannot and shall not exercise powers of arrest conferred on them by any law without first having a warrant of arrest. By extension, there is a procedure for the arrest which is that they cannot be arrested without warrant, but if the security agencies complied with the law by affecting the arrest with warrant, the arrest is valid.

Subsection 2 of section 98(C) also makes it mandatory that even where such judicial officer or officers have been arrested, no complaint or information can be instituted against them unless such complaint or information is signed by the Attorney General of the federation or by/or on his behalf or by the Attorney General of state in which the offence is alleged to have been committed. The second question then is whether a formal complaint was filed or information instituted arising from the arrest and if yes was it signed by the respective Attorney Generals or a person acting on their behalf. From the above, once there is allegation of corrupt practice against a serving judicial officer, the security agencies can arrest and prosecute if they can show that the arrest was with warrant and the complaint or information for their arraignment have been signed by the respective attorney general or person acting on their behalf. The security agencies once the issue relates to corruption need not refer to National Judicial Council if it has complied with Section 98C (a and b). However, a look at Section 292(1) (b) of the 1999 Constitution provides that a judicial officer may be removed from office by the governor for acts ranging from receiving and accepting gifts and benefits and property in discharge of their duties which amounts to misconduct and breach of code of conduct under section 6(1) Part I Fifth Schedule of the Nigerian constitution by recommendation to the National Judicial Council. It therefore appears clearly that there is a conflict between the provisions and procedure under section 292(1) b of the constitution and the procedure under section 98c, a and b of the Criminal Code Act. What is important to be noted is that the acts criminalized under the Act under section 98 as official corruption is the same thing recognized as misconduct in discharge of duties and breach of Code of Conduct under Section 292(1) b of the Constitution.

From the above, is it understood that either that the proponents of NJC first investigating the judges and making report to the security agencies are relying on the principle of the supremacy

²³ See section 98A, B and Section 99 of CPA, C38 2004 and Section 6(1) Part I 5th Schedule 1999 CFRN

of the constitution or there is deliberate effort to shield the judges from prosecution. Our considered view is that the intention of those supporting that NJC investigate and report the judges to the Security agencies is only to follow the procedure laid down by the cardinal law of the land and to ensure that these judges are not subjected to harassment of public trial without any evidence at the end to sustain the allegation. It is also a measure to check the excesses of the security agencies who sometimes can be compromised.

For those who support that the security agencies do not need to recourse to NJC, before arrest of judges, they think so because, there is the fear that the NJC may not have the will to investigate the judges owing to their professional brotherhood as judges. Thus, they approve the arrest of the judges but stick to the fact that the restrictions under section 98c (a) and (b) must be complied with. It appears that the Court of Appeal in *Ngajiwa v. FRN* has settled the issue which is that the EFCC and DSS (as security agencies) has powers to arrest, investigate and prosecute serving judicial officers²⁴. The court of appeal did not mince its words when it held in *Ngajiwa's* case above mentioned Per Obaseki Adejumo JCA that the issue is not whether the EFCC and other security agencies have powers to arrest, investigate and prosecute judges, they have to make formal complaint to NJC who has the duty to investigate the judges for any professional misconduct in discharge of their duties within the provisions of the constitution of Nigeria. Thus, what the court is saying is that, if there is allegation of misconduct against a judge relating to corruption in the discharge of his duties, the security agencies makes report to NJC who looks into it and if the judge is culpable, the judge is dismissed to pave way for investigation and prosecution and failure to make such report by the security agencies amounts to usurpation of the powers of NJC by the agencies concerned. What the court is saying thus is that “yes” you have the powers but report to NJC first. The most important thing is that the investigation and prosecution of judges by EFCC and other agencies on cases of misconduct which relates to official corruption has restriction both under the constitution of Nigeria and under the Criminal code Act. For the constitution, section 292 (1) (b) must be followed while for the criminal code Act, the procedure under section 98C (a) and (b) must be complied with²⁵. The agencies have the powers to arrest and prosecute judges for corruption but must comply with procedure laid down. If the matter borders on cases outside corruption, the agencies need not report to NJC nor do they need a warrant.

Living extravagant life till date in Nigeria is not an offence under any law and the fact that it is one of the areas that the EFCC Act gave the commission special powers to cause investigation, what will be the effect of investigation carried out without prosecution more so when the act investigated is not a “crime” in any law in Nigeria. Our view is that such investigation goes to no issue and is a waste of time and resources. Our view is that S. 158(1) OF CFRN does not give immunity to judges but guarantee independence of NJC. The power of National Judicial Commission to sanction erring judges is created under the Constitution of Nigeria. Having stated that the constitution created the National Judicial Council to sanction erring judges for misconduct committed in discharge of their duties, it is also the law that the body discharges this

²⁴ 2017 LPELR – 43391 (CA)

²⁵ Part 1, Third schedule, section 20, 21(b) and (d) of 1999 constitution of Federal republic of Nigeria as amended in 2011.

duty independently without any interference from any authority or persons²⁶. However the NJC has no powers of prosecution like the security agencies or law enforcement institutions in the country and cannot arrogate itself as so.

In any of the two instances i.e. where he is tried for offences outside the discharge of his office and offences of official misconduct, he cannot continue to be in service while the trial is going on. If he is allowed to be in office while he is tried, the credibility of the judicial system is substantially affected. This view is supported in Nigeria and also received support in United State in Otto Kerner's case²⁷. However, there are series of misconduct among judicial officers which are sanctioned by Judicial Commissions set up in different states like the National Judicial Council created under the 1999 constitution of Nigeria. Such conduct which the NJC has the exclusive right to discipline erring judicial officers in Nigeria ranges from issue of failure to uphold the integrity and independence of the judiciary, improper court room behavior, example his handling of litigants and counsel before the court, conflict of interest (personal interest) improper or illegal influence (family influence in the proceedings etc) impropriety off the bench (making unguided comments publicly), engaging in private discussion which may influence his judicial decisions, threat to litigants, use of unguided language against counsel and litigants and acting in bad faith in matters before the judge, uncontrolled temperance or anger by a judge²⁸. All these acts above and more are indeed acts which touch and affect the integrity of the judicial system and the administration of justice and the National/Judicial council has exclusive competence to deal with any complaint relating to them against any judge in Nigeria.

It must be stressed that there must be a line between legal error on the part of the judge and judicial misconduct. Thus, a judge will not be punished or sanctioned in Nigeria or any other community for an error made in giving a construction to a law or in his interpretation of a statue while arriving at a decision in a case conducted by a court. Thus, an error of law or an error as a result of a judge misdirecting himself or herself are cases that can be redressed by appellate review of the appeal court or supreme court as case may be and such is not a misconduct.

Our considered view which is supported locally and internationally is that if every error or abuse of discretion subjects a judge to discipline, then the independence of the judiciary will be threatened in the country. A judge therefore must work within his authority in dealing with litigants and counsel before him and once he is civil, his action will not attract sanction. Whereas a judge has latitude of powers when speaking with parties in a case, unnecessary use of threats which exceed beyond judicial authority is unacceptable and this act and other such ones attract sanctions from National Judicial Council in Nigeria or any such commission or bodies in other states²⁹.

²⁶ Section 158(1) of 1999 CFRN, as amended in 2011.

²⁷ Otto Kerner v. United States 417 US 916,1879.

²⁸ Ben F. Overton "Grounds for Judicial Discipline in the context of Judicial Disciplinary Commissions" Chicago Kent-Law Review Vol. 54 Issue 1 Article 5

²⁹ Cynthia Gray "The Line between Legal Error and Judicial misconduct" Balancing Judicial Independence and Accountability, Hofstra Law Review, Vol. 12, issue 4 Article 12, 2004.

Many Nigerians contend that the corruption among Nigerian judicial officers can be traced to many factors. While some point accusing fingers to some senior lawyers, some blame some litigants while others hold the National Judicial Council responsible. The corruption among the judges in Nigeria is an issue that has generated a lot of concern in the polity. Owing to the sacred nature of the institution of the judiciary, much trust and confidence is reposed by the citizens on the courts and the judges as they are seen as the last hope of the poor. It turned a different and very devastating situation when the revered and hallowed chambers of judges where everybody expects to get justice turned out to be a negotiation arena where orders, judgements and decisions affecting the larger majority and “the helpless” are bidden and paid for.

The courts are no longer trusted and Nigerians are resorting to “Self-help Justice”.

- (ii) The corruption among the judges in Nigeria is the handwork of senior lawyers. The dominant view in Nigeria is that senior lawyers corrupt the judges by playing “middleman” role in the bribery deal between the judges and litigants including politicians and corrupt officials of different agencies and parastatals of government. In the words of the chairman of Presidential Advisory committee against corruption in Nigeria, “Judges are corrupted by senior lawyers, it is unusual. Where can the ₦360M found in the judges houses come from, and if such illegitimate money is found in judges houses, what system are we operating, there is degeneration in the society, before now, the judiciary is treated with sanctity and like god but with the thing that is happening, the judges are like every one now in attitude and conduct and can no longer be worshipped, if you don’t have money, you cannot get justice”³⁰. While we share the same view with the learned professor and senior advocate, it is pertinent to add that there are clear cases of even junior lawyers who became intimate with the judges and contribute immensely in the spread and growth of corruption in Nigerian judiciary. In confirming the serious view that senior lawyers in Nigeria encourage corruption among the judges, there are cases of allegation against senior lawyers bordering on “asking for” “receiving” and “giving bribes” to judges and even soliciting for rewards and benefits for judges from litigants and politicians in election matters. Some of these seniors have been arraigned by Economy and Financial Crimes commission as is the case of two senior advocates of Nigeria, now standing trial on allegation of receiving bribe and asking for it for the judges concerned from litigants at Lagos State High Court.
- (iii) In addition to the above, there is also an emerging but strong position that the National Judicial Council (NJC) should be blamed and held responsible for corruption among the judges in Nigeria. In the view of Femi Falana, human rights activist and constitutional lawyer, the NJC should be blamed for not stamping out corrupt judges in the system. According to him, for many years judges found wanting for corruption are merely retired than being prosecuted for grave offence they committed³¹. As he said, judges are found with money beyond their income, they are invited and granted bail and sometimes the case ends as NJC gives them clean slate that there is no evidence linking the judges to the alleged offence.

³⁰ Itse sagay “Judges are corrupted by Senior Lawyers” vanguardonlinecomments on arrest of judges DSS (accessed 4/3/2018).

³¹ Vanguardonline.com comments on judges arrest by DSS and Judicial corruption (accessed 4/3/2018).

(iv) There is also a wide criticism from concerned Nigerians that the Nigerian Bar Association which is supposed to be in the forefront in the fight against corruption in the judiciary shield corrupt judges from prosecution. As Falana pointed out, “In particular, the Nigerian Bar Association which has information on all corrupt judges and lawyers in the country has continued to shield them to the embarrassment of incorruptible members of the bar and bench” The few lawyers that have plucked the courage to expose the corrupt judges and lawyers have been stigmatized and treated as lepers by their colleagues. However, it is a matter of grave concern that the legal profession has allowed the denigration of the hallowed temple of justice because of the corruption of a few corrupt judges³². We share this view entirely.

6. Conclusions

Our research has revealed a pertinent issue which is that there is corruption in the Nigerian judiciary and before now, the concerned authorities empowered to check the act have treated the issue with kid gloves. As a result of the ravaging effect of the menace, the EFCC and DSS took up the matter and moved against the judges. The action of the agencies have been questioned and criticized. Many insist that whereas the agencies have the powers to investigate and prosecute the judges, the manner and procedure made the entire process unconstitutional. Looking at the laws, the agencies have their duties to check misconducts of judges in discharging of their respective official functions, the same way the NJC have their powers but in exercising their respective duties, the law must be adhered to. A range of scholars support this view including, Sagay, Falana, Omaka and legislators alike. We share their views and also agree that our court is weak, senior lawyers incubate corruption among judges alongside the professional body of lawyers and the NJC but all hands must be on deck to develop a synergy to demolish corruption in Nigeria Judiciary. Finally, it is our candid view that the future prospect towards a revived Nigerian Judiciary free and devoid of corruption among the judges is dependent on our collective will and commitment to see and recognize judicial corruption as a national emergency and attack it with all our energy, time, resources and strategies without looking back. This indeed is our take on the matter. Judges are public officers and are citizens of Nigeria but the Public Officers Protection Act does not protect public officers when they commit offence, misconduct or acts against the state in discharge of their duties. Unless we face this reality, the problem in the judiciary in Nigeria will remain unsolved, this will not help the country in anyway.

³² [http://www.vanguardngr.com.blameNJC for-corrupt-Judges Falana](http://www.vanguardngr.com.blameNJC-for-corrupt-Judges-Falana) (accessed 4/3/2018)