

**GOOD GOVERNANCE CONUNDRUM: BEYOND A NEW GENERATION OF FREEDOM FIGHTERS/ANTI-CORRUPTION FIGHTERS IN NIGERIA\***

**Abstract**

*Corruption is not localized in Nigeria or Africa but has grown to be a global menace due to its devastating effects on not just the world economy but on every other sphere of life. Both international and regional instruments have provided help in the fight against corruption. These instruments also expanded the scope of corruption beyond bribery to include embezzlement, money laundering and other financial crimes. Nigeria is not left out in the global fight against corruption as seen by the various anti-corruption agencies and policies it has adopted over the years. However, this article tries to raise the opinion that the anti-corruption fight should not be left to these agencies alone. Other nongovernmental groups like the public and private sectors, among others should be involved for more effective and speedy results. The research highlights corruption in Africa and Nigeria in particular. It stressed the various weaknesses and failures both in military and democratic governance in the various governmental institutions like the police, judiciary, politicians and the need for their reforms if the fight against corruption will be a reality. It emphasized the roles of freedom fighters and the fact that the fight is beyond them and must embrace other facets of the system vis-a-vis the public and private sectors, media, etc. It expressed the view among other things, that all the three anti-corruption agencies in Nigeria-the Code of Conduct Bureau, ICPC and EFCC should come under one omnibus agency in different departments in order to avoid unnecessary duplicity, waste of resources and abuse of processes.*

**Keywords:** Anti-Corruption, Governance, Conundrum, Freedom fighters, Corruption, ICPC, EFCC

**1. Introduction**

In line with the core focus of the present political administration and the interest Nigerians are showing towards the fight against corruption, it has become more auspicious to start thinking of a new generation of freedom/anti-corruption fighters. The fight ought to involve the judiciary, legislatures, civil organizations, etc for it to be realistic. For example, a court in Abuja has restrained the Attorney General of the Federation (AGF) and the Inspector General of Police (IGP) from acting on the subsidy probe report in so far as it affects Integrated Oil and Gas Limited pending the hearing and determination of a suit brought before it.<sup>1</sup> There is therefore a likelihood that over N I trillion fraud recorded in the subsidy regime may eventually be forgotten, because of the \$620,000 bribery scandal. It may go the way of other scandals cum probes –the Pius Okigbo/Gulf War Oil Windfall (\$12 Bn),<sup>2</sup> the Oputa Panel,<sup>3</sup> PTDF probe, the probe on the various plane crashes in Nigeria, pensions probe and various other probes that revealed stolen/misappropriated funds or other corrupt practices, but of which no action was taken. No wonder Transparency International’s Corruption Perception Index for 2019 ranked Nigeria 140 out of 180 countries.<sup>4</sup> Majority are aware of a widely reported ‘Transparency International letter written to the Nigerian President threatening lawsuit as its global work is threatened by Nigeria’s huge corruption data.’<sup>5</sup> While we cannot easily place a price on ethnic chauvinism and religious bigotry,<sup>6</sup> recent studies indicate that corruption is costing Africa over US\$150 billion annually, enough to fix over half of the continent's infrastructure deficit. The World Bank's Federal Public Expenditure Review for Nigeria published in 1995 claimed that

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<sup>1</sup>Nigeria: Court Stops Federal Government from Implementing Subsidy Report at <http://allafrica.com/stories/201207050380.html>

<sup>2</sup>'Babangida's \$12.4 Billion Gulf War Oil Windfall Theft: Court Dismisses SERAP'S Okigbo,' available at <[saharareporters.com](http://saharareporters.com)> accessed on 17/6/2020.

<sup>3</sup>'The Human Rights Violation Investigation Commission of Nigeria,' - Wikipedia available at <<https://en.m.wikipedia.org>> accessed 17/6/2020.

<sup>4</sup>'Nigeria Corruption Rank, 1996-2019 Data...' available at <<https://tradingeconomics.com>> accessed on 7/6/2020.

<sup>5</sup>Saharareporters News: <http://saharareporters.com/news-page/transparency-international-letter-president-goodluck-jonathan-threatening-lawsuit-its-glob> posted May 2, 2012.

<sup>6</sup>Fawole, O.A., 'The impact of ethno-religious conflict on Nigerian federalism,' *International NGO Journal* Vol. 6(10), pp. 211-218, 2011. Available online at <<http://www.academicjournals.org/INGOJ> DOI:11.5897/NGOJ11.020.> accessed 17/6/2020; also, Egbefo, O.D., 'Leadership and Ethno-Religious Crises: Implications for National Integration in Nigeria,' *African Research Review* Vol. 9(4), 2015.

approximately US\$200 billion was invested in Nigeria, between 1973 and 1993, with very little development to show for it.<sup>7</sup> While noting some improvement in fiscal discipline, its 2011 report on some Nigerian States - Anambra, Bayelsa, Ekiti, Kogi, Niger, Ondo and Plateau States - berated the performance of the Public Financial Management systems across all the states and classified them as generally poor.<sup>8</sup> Conventionally, 'development' that Africa so desperately needs is often so narrowly misconstrued to mean 'economic growth' without more; yet, it has several components. Its objective is to create an enabling environment for human well-being.<sup>9</sup> An appreciation of this subject matter would first, require an understanding of the basic concepts, the context, options, the role of freedom/anti-corruption fighters and whether they are all we need in the fight against corruption. The sections that follow are attempts to discuss the subject matter in greater detail.<sup>10</sup>

## 2. Conceptualisation

Freedom is the state of being free or at liberty rather than in confinement or under physical restraint. It includes exemption from external control, interference, regulation and embodies the power to determine action without restraint. Within a country's context, it could include political or national independence and at an individual level is personal liberty, as opposed to bondage or slavery.<sup>11</sup> As vital as it is, freedom is not necessarily synonymous with anti-corruption, nor does it easily lead to economic growth or development. With very little or no freedom, the economic successes of China, Singapore and Malaysia readily come to mind.<sup>12</sup> This is particularly so because 'freedom' may in certain contexts be qualified depending upon whether we are talking about economic, political, social or cultural freedom. The term, 'freedom' in its most comprehensive meaning embodies all or any of the aforementioned.<sup>13</sup> Africa's freedom fighters may have envisaged economic and social justice bound with political independence. Indeed, without their pioneering efforts, Africans would probably still have been under political, economic and social bondage and, with it, incessant and unmitigated abuse of their human rights and fundamental freedoms.<sup>14</sup> 'Anti-corruption', on the other hand, is the anti-thesis of 'Corruption', the opposite of corruption. 'Corruption' is 'the act of corrupting or state of being corrupt.' Corruption is a crime committed by officials (public or private) abusing their role to procure gain for themselves or somebody else. Several forms of corruption exist: bribery, embezzlement, abuse of power, just to name a few.<sup>15</sup> Quiet corruption, an aspect of corruption has been identified as rampant in the public sector in Africa.<sup>16</sup>

The case of neocolonialism and corruption in Africa is like case of *volenti non fit injuria*, which simply means 'to one who volunteers, no harm is done'. Where the defense of *volenti* applies it operates as a complete defense absolving the defendant of all liability because the Claimant is assumed to consent to the risk of harm. There is a considerable overlap with contributory negligence.<sup>17</sup> In May 29, 2008 - over 40 African leaders participating at a

<sup>7</sup>Independent Corrupt Practices and Other Related Offences Commission paper

<sup>8</sup>Report No. XXX, NIGERIA: State Level Public Expenditure Management and Financial Accountability Review: A synthesis report - Anambra, Bayelsa, Ekiti, Kogi, Niger, Ondo, and Plateau January 2011 at p. ix; see also [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/04/09/000333037\\_20120409013221/Rendered/PDF/679340ESW0P1080IC0disclosed04050120.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/04/09/000333037_20120409013221/Rendered/PDF/679340ESW0P1080IC0disclosed04050120.pdf). Poverty Reduction and Economic Management, AFTP3 AFCW2 Africa Region

<sup>9</sup>Human Development Reports at <http://hdr.undp.org/en/humandev/>

<sup>10</sup> Ubaku, K.C., Emeh, C.A. and Anyikwa, C.N., 'Impact of Nationalist Movement on the Actualization of Nigerian Independence, 1914-1960' *International Journal of History and Philosophical Research* Vol. 2, No. 1, pp. 54-67, 2014. Available at <[www.eajournals.org](http://www.eajournals.org)> accessed 7/6/2020.

<sup>11</sup>See Dictionary.com at <http://dictionary.reference.com/>

<sup>12</sup>Kevin Hassett, Does Economic Success Require Democracy, *The American: The Online Magazine of the American Enterprise Institute* at <http://www.american.com/archive/2007/may-june-magazine-contents/does-economic-success-require-democracy>

<sup>13</sup> Alamu, Oluwaseyi, 'Corruption, Anti-Corruption Agencies and the Nigerian Government,' *Global Journal of Interdisciplinary Social Sciences*, 2016, Vol. 5 (2): 1-5 available at<<https://www.longdom.org>> accessed 7/6/2020.

<sup>14</sup> Zekeri, Momoh, 'Corruption and Governance in Africa' being a Conference paper he presented at the International Academic Conference for Sub-Sahara African Transformation and Development Vol. 3 No. 6 March 12-13 2015- University of Ilorin, 1000 Capacity Lecture Theatre Hall, Ilorin, Kwara State, Nigeria.

<sup>15</sup>UNODC, 'Corruption' <http://www.unodc.org/unodc/en/data-and-analysis/statistics/corruption.html>

<sup>16</sup>'Quiet Corruption' Undermining Development in Africa' at

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/0,,contentMDK:22501207~pagePK:146736~piPK:146830~theSitePK:258644,00.html>

<sup>17</sup>Elawresources: <http://www.e-lawresources.co.uk/Volenti-non-fit-injuria.php>

three-day conference in Yokohama, Japan accused rich nations of blocking Africa's growth.<sup>18</sup> Others have blamed our backwardness on centuries of slave trade and neo-colonialism. Either view, though contentious, is strongly held even in enlightened circles in convenient disregard to the notion of our individual and collective responsibility. The notion of some grand conspiracy by rich nations to keep Africa perpetually underdeveloped in their self-interest is one that has gained forceful currency.<sup>19</sup> To be sure, rich nations continue to pressure poor countries to take steps towards stimulating business through privatization, restructuring and repositioning the banking sector, embracing free trade and acceding to the World Trade Organization, which trade rules had long been settled by them.<sup>20</sup> While promoting economic laissez-faire philosophy for poor countries, rich nations impose protectionist policies and measures that cater for powerful special interest groups in their respective countries.<sup>21</sup> Their continued subsidy in the agricultural sector, while enforcing trade barriers against poor nations is hypocritical.<sup>22</sup> Others point to rich nations providing safe-haven for laundered money from poor developing countries of Africa.<sup>23</sup> Monies laundered by past African Heads of States and Presidents and in very recent times including provincial, regional or State governors, such as James Ibori of Delta State of Nigeria amounting to billions in hard currency that should otherwise have been channeled towards Africa's infrastructural development have been fairly documented. The argument that the rich nations are aware of these illicit transactions and simply turn a blind eye because of its benefits to their economies while conversely depriving Africa of much needed development finance is appealing.<sup>24</sup>

Considering the absence of honest, sincere and visionary leadership on the continent, the degree of contributory negligence of Africa's leaders to its own underdevelopment effectively wipes away any suggestion that it remains underdeveloped essentially because some rich and industrialized nations jointly or severally conspired to keep it so. Greed, selfishness and above all corruption by Africa's political elite have had a contributory negligence on Africa's stunted growth and effectively erased any suggestion that it remains underdeveloped because of some grand conspiracy by rich and powerful industrialized nations.<sup>25</sup> To think that over half a billion people in Africa do not have access to electricity and, that where it is available, most countries suffer from erratic supplies, while the River Congo (formerly Zaire) with proven potential of supplying all the power that Africa needs and more remains largely underutilized;<sup>26</sup> to think that, over 130 million people in sub-Saharan Africa also rely on firewood, cow dung and crop residues for their cooking and heating needs with enormous health implications and no escape route from the poverty cycle in sub-Saharan Africa, when they could easily have had access to electricity whether grid or off-grid as in many other parts of the world; to think that with the exception of Asia, Africa has the world's largest landmass, but is largely unable to feed itself; to think that some African countries' spending on the military as a percentage of the gross domestic product (GDP) is higher than that of the United States of America and other rich nations, whereas Africa is least able to defend or feed itself; to think that some African leaders live much more affluent lifestyles than their compatriots in richer nations, while their own people wallow in abject deprivation, poverty and squalor; to think that a continent, mostly in need of peace is actually replete with strife, armed conflicts, civil wars and lately terrorism, is quite frankly, not just a vexation of the spirit, but baffling and

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<sup>18</sup>Tokyo International Conference on African Development (TICAD)-Panapress available at <<https://www.panapress.com>>pana-dossees...

<sup>19</sup>Jadesola Tai Babalola, 'Neo-colonialism in Africa: A Perpetuation of Western Interest,' being a seminar paper presented at Department of History and International Studies, Ado Ekiti State University, Ado Ekiti on the 13th of January, 2013. Available at <<https://www.researchgate.net>> accessed 27/05/2020.

<sup>20</sup> Saul Estrin and Adeline Pelletier, 'Privatization in Developing Countries: What Are the Lessons of Recent Experience?' *The World Bank Research Observer*, Vol. 33, no. 1 (2018), pp. 65-102.

<sup>21</sup> Ibid.

<sup>22</sup> Edmund L. Andrews, 'Rich Nations Are Criticized for Enforcing Trade Barriers,' available at <[www.nytimes.com](http://www.nytimes.com)> accessed 27/05/2020.

<sup>23</sup> 'Out of Africa: Capital Flight, Global Financial Integrity,' available at <<https://gfintegrity.org>> accessed 27/05/2020. Also, Jason Hickel, 'Aid in reverse: how poor countries develop rich countries available at <<https://www.theguardian.com>> accessed 27/05/2020.

<sup>24</sup>'Economic Development in Africa Report 2018: Migration and Structural Transformation,' *Economic Development in Africa*, available at <<https://books.google.com.ng>>

<sup>25</sup> Parks, G.S, 'Complicit in their own Demise? a' *Law and Social Inquiry*, Vol. 39, 2014 available at <<https://www.ssm.com>> accessed 5/6/2020.

<sup>26</sup> WHO, 'The Energy Access Situation in Developing Countries: A Review Focusing on the Least Developed Countries and Sub-Saharan Africa (WHO, UNDP), 2009 @[www.undp.org/energyandtheenvironment](http://www.undp.org/energyandtheenvironment).

confounding to any sentient soul. Whether in military or civilian regimes, progress has been relatively very slow, and in some cases, non-existent or reversed.<sup>27</sup>

### 3. The Role of Freedom and Anti-Corruption Crusaders

The role of freedom and anti-corruption crusaders in the march towards freedom, democracy and good governance in Nigeria, in particular, and Africa, in general, cannot be overstressed. Freedom/anti-corruption crusaders fearlessly hold despotic and corrupt regimes to account, thereby decrying official rampant corruption, which continues to undermine Africa's development.<sup>28</sup> They put their lives on the line and some have paid the ultimate price with their lives.<sup>29</sup> It must be said though that freedom and anti-corruption crusaders are not just individuals. They can also be initiated by private sector organizations, such as a group of businesses, or by civil society organizations, religious institutions or non-governmental organizations (NGOs) or other advocacy groups. In South Africa, an organization called, 'Business Against Crime' not only monitors organized crime but also corruption in the public sector.<sup>30</sup> Civil Liberties Organization and the Campaign for Democracy, International Society for Civil Liberties and the Rule of Law (Nigeria) in Nigeria not only promote and defend civil liberties and democracy respectively, but also act as watch-dogs against corruption in high places. The founding of Transparency International organization with its country chapters can be seen as a very good example of a civil society anti-corruption crusade at the global level that cascades into national realms. There are, however, drawbacks in relying exclusively on freedom/anti-corruption crusaders to the detriment of other long-term institutional strategies and mechanisms that entrench good governance and, invariably, reduce corruption. First, corruption-tainted governments may put freedom/anti-corruption crusaders under considerable pressure, in some cases imprisoning or even assassinating them through its agents or other anonymous sources. The assassination of Dele Giwa via a letter-bomb,<sup>31</sup> the trumped-up charges that led to the Kangaroo trial and eventual hanging of Ken Saro Wiwa,<sup>32</sup> the death in custody of Chief Moshood Abiola,<sup>33</sup> including the rampant assassination of other pro-democracy/freedom/anti-corruption activists during Abacha's military regime in Nigeria are examples. In South Africa, the imprisonment of anti-apartheid freedom fighters including Walter Sisulu and Nelson Mandela and the killing of Steve Biko are other examples.<sup>34</sup> Very recently, the Chairperson of South Sudan's Civil Society Alliance, Deng Athuai, who is a prominent anti-corruption and human rights activist, was on 8<sup>th</sup> July, 2012, found by the side of a road in Juba tied in a sack and severely beaten, according to military sources.<sup>35</sup> The incarceration and or assassination of freedom/anti-corruption fighters may increase resentment against dictatorial/corrupt governments, drive opposition underground and ultimately lead to the downfall of such governments. But, it could also frustrate, scuttle or even derail the freedom/anti-corruption movement. Secondly, sometimes, even freedom and anti-corruption crusaders, who should otherwise have a unified front against the common enemy hardly agree, simply want exclusive credit of the struggle to indulge their ego, or become bitter enemies.<sup>36</sup> Third, considering that humans are not infallible even the 'heroes' of 'freedom/anti-corruption' occasionally gradually or suddenly slip into becoming the 'villains'. From Cairo to Zimbabwe and from Banjul to Addis-Ababa erstwhile freedom fighters under colonial rule became transmogrified into corrupt dictators. Nigeria has also seen its share of 'anti-corruption heroes' in military outfits, who took over power under the pretext of ridding the system of corrupt politicians, while they themselves and their regime became cesspools of corruption.

<sup>27</sup> Qobo, Mzukisi, 'The Challenges of Regional Integration in Africa,' In the context of globalisation and the prospects for a United States of Africa, Paper 145.

<sup>28</sup> Awojobi, Oladeyo N., 'Corruption and Underdevelopment in Africa: A Discourse Approach,' *International Journal of Economics, Commerce and Management*, Vol. II, Issue 10, 2014.

<sup>29</sup> Eme, O., Igwe I., and Ezenwafor E., 'African Anti-Corruption Agencies: Challenges and Prospects' *Management Studies and Economic Systems (MSES)*, 3, (4), 225-243, Spring 2017.

<sup>30</sup> 'Business Against Crime South Africa (BACSA)' @ <https://ng.linkedin.com/company/business> accessed 7/5/2019

<sup>31</sup> 'FLASHBACK: How bomb killed Dele Giwa, 'the flaming journalist who gave tyrants nightmares@ <https://www.thecable.ng/flashback.dele>.

<sup>32</sup> 'The brutal execution of heroic Nigerian writer Ken Saro-Wiwa that shocked the world' @ <https://face2faceafrica.com> accessed 7/5/2019.

<sup>33</sup> 'The stolen victory and mysterious death of Moshood Abiola' @ <https://adst.org>

<sup>34</sup> 'Biko's imprisonment, death and the aftermath,' *South African History Online*, available at <<https://www.sahistory.org.za>> accessed 7/6/2020.

<sup>35</sup> *Sudan Tribune*: 'South Sudan: Activist Found Beaten Into a 'Coma' After Disappearance' <http://allafrica.com/stories/201207090702.html>

<sup>36</sup> 'India's anti-corruption crusaders try to breathe new life into crusade' @ <https://www.washingtonpost.com>>worldpost-

#### 4. Beyond Freedom/Anti-Corruption Fighters

Anti-corruption crusade in the sense of championing another generation of anti-corruption fighters may simply breed a generation of Nigerians or Africans interested in massaging their ego as 'freedom/anti-corruption fighters,' paying lip service to dealing with the problem without necessarily addressing the underlying causes; nor is focusing exclusively on enforcement of anti-corruption laws helpful since the damage of corruption will have taken place already. The key to a successful strategy to tackle corruption is the complementary synergy of both preventive and enforcement approaches. Additionally, the legal, socio-political and economic aspects must be effectively addressed. Lastly, corruption is become a trans-boundary phenomenon requiring various international approaches that can spur positive change in national jurisdictions. Arguably, if only we could genuinely reform, effectively implement our reform agenda, periodically monitor on-going progress as well as enforce compliance with our democratic developmental agenda - policies and laws, we would not so much require another breed of freedom/anti-corruption crusader. What follows is a summary discussion of what we must do beyond hoping for another generation of anti-corruption crusaders.

#### 5. Strengthen Anti-Corruption Laws, Institutions and Improve Compliance Enforcement

*Effective Prosecution and Stricter Punishment for Corruption and Economic Crimes:* The role of punishment in any criminal justice system or society cannot be over emphasized. Punishment is a forward-looking theory for the betterment of society. It helps prevent crime, as well as reduce its future consequences. Corruption has eaten deep into the fabrics of Africa and Nigeria in particular. It has left much bitter taste in the mouth of the citizens that only drastic measures is fit to fight it out of the system. Amongst those charged with official corruption in Nigeria, including former Governors and other public figures very few eventually got prosecuted. Of those who were prosecuted, fewer still were convicted. Most of those convicted bounced-back to limelight and bestrode the landscape like behemoths. The longest sentencing so far against a former Nigerian Governor convicted of corruption is that of former Governor of Delta State, James Ibori; and, only because the conviction was by a UK court,<sup>37</sup> when his prosecution in Nigeria became embroiled in an evasive political gerrymandering. Two months after a London Court jailed Mr. James Ibori, for fraud and money laundering, it was reported that another former Governor of Bayelsa State, Diepreye Alamiyeseigha, who was jailed two years by a Nigerian court for fraud in 2007, including forfeiture of his ill-gotten assets, is to forfeit \$401,931 and his Maryland, US home worth \$600,000 to the United States Government.<sup>38</sup> The US Department of Justice executed a forfeiture order on \$401,931 in a Massachusetts brokerage fund traced to Alamiyeseigha.<sup>39</sup> Upon his conviction for corruption and other offences, former Inspector General of Police of Nigeria, Tafa Balogun was sentenced to a six-month imprisonment and forfeiture of all his assets, shares and landed property acquired with the fund stolen from the police treasury. The assets totaled 150 million US dollars, including money stashed in banks, shares in blue chip companies and 14 luxury buildings.<sup>40</sup> Ironically, most Nigerians who spoke about his arrest, prosecution and conviction felt that handcuffing him was far more humiliating than the conviction and sentence passed on him. We may presuppose that he is now a free man waiting in the wings to 'bounce-back', if he has not already.<sup>41</sup> The case against former Governor of Rivers State, Chief Dr. Peter Odili is hereby recast from a well-written petition filed before the National Judicial Commission (NJC) at the time by a UK-based Nigerian citizen, Osita Mba.<sup>42</sup> In January 2007, the Economic and Financial Crimes Commission in the exercise of its statutory powers issued a report of its investigation into the finances of the Rivers State government under the then outgoing Governor Peter Odili. It was disclosed that 'over 100 billion Naira of Rivers State funds were diverted by the Governor, and contained serious allegations of fraud, conspiracy, conversion of public funds, foreign exchange malpractice, money laundering, stealing and abuse of oath of office. Subsequently, the Rivers State Government through its Attorney-General filed an action challenging the powers of the EFCC to probe the affairs of the State and claiming that the activities of the EFCC were prejudicial to the smooth running of the Government of Rivers State. The

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<sup>37</sup>BBC News Africa, 'Former Nigerian Governor James Ibori Jailed for 13 Years' <http://www.bbc.co.uk/news/world-africa-17739388>

<sup>38</sup>Nigerian News, 'Diepreye Alamiyeseigha, Former Governor Of Bayelsa State's Assets Seized By US' <http://news2.onlinenigeria.com/headlines/175383-diepreye-alamiyeseigha-former-governor-of-bayelsa-state-s-assets-seized-by-us.html>

<sup>39</sup> Ibid.

<sup>40</sup>'Corruption: We need the Chinese treatment- Alli' at <http://tribune.com.ng/index.php/politics/43806-corruption-we-need-the-chinese-treatment-alli>

<sup>41</sup>Phil Tam-Alalibo, 'So Tafa Balogun is a free man?' at <http://www.onlinenigeria.com/articles/ad.asp?blurb=201>

<sup>42</sup>The petition was first published by Sahara reporters see <http://saharareporters.com/news-page/peter-odilis-perpetual-injunction-justice-buba-queried-njc>

case was given expeditious hearing and on March 23 2007, the trial judge, Honourable Justice Ibrahim Nyaure Buba, granted all the declaratory and injunctive reliefs sought by the Plaintiff. These include a declaration that the EFCC investigations are invalid, unlawful, unconstitutional, null and void; an injunction restraining the EFCC and the other defendants from publicizing the report of the investigation; and an injunction restraining the EFCC from any further action in relation to the alleged economic and financial crimes committed by Dr Odili. In a subsequent action Dr. Odili filed against the EFCC and including the Federal Attorney General in suit no. FHC/PHC/CSI78/2007, seeking to enforce the original judgment by way of an *ex parte* order barring the EFCC from investigating or arresting or prosecuting him, the court upheld the subsisting judgment of March 2007 as binding on all parties. Effective prosecution and de-politicization of corruption cases, including stiffer penalties would go a long way to winning the war against corruption in Nigeria, in particular and Africa, in general. Nothing other than the Chinese approach may be appropriate.<sup>43</sup>

***Focus and Streamline the Fight against Corruption*** – there are just too many anti-corruption institutions in Nigeria. The triplication of institutional mechanisms in the fight against anti-corruption introduces bureaucratic complexity and dilutes the resolve to fight corruption rather than concentrate resolve, energy and resources to fight it. It is not only wasteful of scarce resources; it speaks volumes on the performance of these institutions over the years. It is, however, noteworthy that, the Presidential Committee on the Rationalization and Restructuring of Federal Government Parastatals led by former Head of the Civil Service of the Federation, Steve Oronsaye, has recommended the merger of the anti-corruption bodies such as the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC) and the Code of Conduct Bureau (CCB).<sup>44</sup> These bodies are to serve as departments within the larger Anti-Corruption Commission (ACC).<sup>45</sup> Also recommended in the report is the elevation of the Code of Conduct Tribunal (CCT) to Anti-Corruption Tribunal, a Court of Superior Records with the responsibility for handling only corruption cases from the proposed merger of EFCC, ICPC and the Code of Conduct Bureau. Extant anti-corruption laws should be repealed, while a new one should be enacted to accommodate the consolidation of EFCC, ICPC and the Code of Conduct Bureau. Although, it is noted that some are uneasy with the recommendations of the report.<sup>46</sup>

***Safeguard the Autonomy of Anti-Corruption institution(s)***—We cannot expect anti-corruption commissions or tribunals to be independent in the discharge of their functions when their membership and in some cases tenure are determined by the Executive. The executive has the power to remove them for inability to discharge the functions of their office.<sup>47</sup> Such wide discretionary powers in the President defeats the autonomy of the commission. It is no wonder that despite the comparatively excellent performance of the EFCC under its maiden Chairman, Nuhu Rubadu, critics were quick to point out that he was simply being used to hunt down the then President's political opponents. The President also appoints the Chairman and other members of the Code of Conduct Bureau subject to confirmation of the Senate.<sup>48</sup> No wonder the performance of the Code of Conduct Bureau and Tribunal have fallen short of expectations in the fight against corruption of public officers. In contrast, Kenya, for example, has considerably evolved from its *Arap Moi* past. Its current Anti-Corruption and Economic Crimes Act 2003 makes provisions for the Judicial Service Commission to appoint special Magistrates. The membership of the Advisory Board to the Commission is statutorily restricted to nomination by certain bodies like the Law Society, Institute of Public Accountants, International Federation of Women Lawyers (FIDA), Association of Professional Societies, Joint Forum of Religious Organizations, etc. It is this Advisory Board that nominates the Director and Assistant Directors of the Commission, for the avoidance of doubt regarding the autonomy of the Commission.<sup>49</sup> In other words, even the nominations for the positions of Director and Assistant Directors have to be approved by the Kenyan National Assembly and receive Presidential assent. Given the different and unrelated bodies responsible for appointing the Executive and Assistant Executives of the Commission, they will protect no other interest but that of Kenya and the Kenyan people. While this is not to suggest that corruption no longer exist in Kenya, if we are serious about the anti-corruption fight, there must be a

<sup>43</sup>Corruption: We Need the Chinese Treatment – Alli' at <http://tribune.com.ng/index.php/politics/43806-corruption-we-need-the-chinese-treatment-alli>

<sup>44</sup>See Yushau A. Shuaib, 'Rationalisation and Anti-Corruption Agencies' at <http://tribune.com.ng/index.php/commentary/42629-rationalisation-and-anti-corruption-agencies>

<sup>45</sup> 'It's time for a federal anti-corruption Commission' available @<https://m.youtube.com>>

<sup>46</sup>'No to EFCC, ICPC merger' Rachel Fola, Lagos at

<http://www.thenationonlineng.net/2011/index.php/editorial/letters/44023-no-to-efcc-icpc-merger.html>

<sup>47</sup>Section 3 (2) of the EFCC Act, 2004

<sup>48</sup>S. 1(3) Code of Conduct Tribunal Act Chapter C15.

<sup>49</sup>Section S. 8(3) and (4)

total overhaul of the anti-corruption laws to truly guarantee and safeguard the autonomy of the membership of our anti-corruption Commission(s), beyond being subject to the authorities of the Executive and Legislative Chambers.

### ***Ensure Public Enlightenment Campaign on the need for Freedom of Information***

After considerable pressure from civil societies, the Nigerian government finally promulgated the Freedom of Information Act 2011. This Act makes public records and information more freely available, provide for public access to public records and information, protect public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving public officers from adverse consequences for disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes. But, not many Nigerians are aware of this piece of legislation; and, fewer still of its importance. What is worse is our collective disposition to corruption. Niyi Osundare had said It is only in Nigeria that corrupt public officer are welcomed. Religious leaders organized thanksgiving service for them, rather than query the source of the ill-gotten wealth of corrupt public office holders and make them accountable for their evil deeds.<sup>50</sup> Civil society is, however, playing a tremendously significant role in public enlightenment campaign, including actions taken to compel public servants to declare their assets. The African Centre for Media and Information Literacy was reported to have sued the Code of Conduct Bureau over President Jonathan's assets declaration.<sup>51</sup> Although not much has been heard of the outcome of this suit, it does highlight, nevertheless, that citizens have a responsibility to take advantage of the FOI Act and request access to public information and records.

### ***Reform of the Political Process, including Judiciary and the Public Service***

*Political Process:* Men and women with requisite qualifications, competencies, skills, goodwill and integrity in the communities, towns and cities should begin to take active interest in the political process. But, this is not going to happen if our electoral process is constantly characterized by fraud, manipulations, thuggery, vandalism or unresolved assassinations. Electoral reform is necessary to open the political system and restoring confidence to the people. Throughout the length and breadth of Africa, democracy has been standing on its head - dead people sometimes vote, opposition politicians and their supporters are indiscriminately harassed or killed and where they cannot, opposition politicians, including those within the ruling party who have run out of favour with their colleagues in power are arbitrarily barred from contesting elections by either the National Electoral Commission or other responsible government electoral agency, if not arrested or imprisoned.

*Judicial Reform:* the court set out the facts as decided by the Supreme Court wherein, amongst others, it called for a new trial on the issue of identity of James Ibori since there was a conviction by the Bwari Area Court. On further appeal, the Supreme Court dismissed the appeal and affirmed the decisions of the lower courts. The Supreme Court held that the 4th respondent was not the one convicted by the Bwari Upper Area Court. The Nigerian courts have constantly relied heavily on technicalities that constantly frustrate diligent prosecution of anti-corruption cases in our regular courts. For instance, in *Chief Great Ogboru v. Chief James Onanefe Ibori and Ors*,<sup>52</sup> for almost a decade, Nigerian courts could not identify Chief Onanefe Ibori, let alone convict him for corruption. This was also the trend in the recent Supreme Court quashing the conviction and sentence of the former Governor of Abia State in, *Kalu v. Federal Republic of Nigeria and Others*,<sup>53</sup> who embezzled over 7 billion Naira belonging to Abia State. Many were further dispirited in the lack of people-oriented judgment of the apex court. The good news is that the former Nigeria's Chief Justice, Justice Mariam Aloma Mukhtar confirmed that the judiciary is corrupt and pledged to cleanse it of its bad eggs.<sup>54</sup> Her good intentions did not however, reduce corruption among judicial officers as seen in the arrest and prosecution of over six judges by the EFCC later in 2016, two years after her tenure as Chief Justice of Nigeria.<sup>55</sup> This no doubt may be because corruption has indeed eaten deep into the social fabrics of the country. It is no doubt expected that corruption matters ought to be dealt

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<sup>50</sup>Nigerian Tribune Online: 'Osundare, Awolowo, Bakare warn against danger posed by corruption' <http://tribune.com.ng/index.php/news/43917-osundare-awolowo-bakare-warn-against-danger-posed-by-corruption>

<sup>51</sup>Group Sues Code of Conduct Bureau Over Jonathan's Assets Declaration at <http://saharareporters.com/press-release/group-sues-code-conduct-bureau-over-jonathans-assets-declaration>

<sup>52</sup>Suit No: FCT/HC/CV/1321/2002

<sup>53</sup>[2016] SC. 215/2012 /NGSC 34 (18th March, 2020).

<sup>54</sup>See The Sunnewsonline, 'There is Corruption in the Judiciary' at <http://www.sunnewsonline.com/article/there-corruption-judiciary-mukhtar-first-female-cjn>

<sup>55</sup>'Arrest and Prosecution of Serving Judges: The Role of National Judicial Council' available at <https://www.vanguardngr.com/News>

exclusively under new rules of law that place emphasis on substantive justice and the need to curb corruption rather than technicalities.

*Public Service Reform:* ‘Quiet corruption’ is seen in the failure of public servants to deliver goods or services paid for by governments. It is pervasive and widespread in Nigeria and across Africa. It is having a disproportionate effect on the poor, with long-term consequences for development, according to a new report from the World Bank.<sup>56</sup> Recent revelations highlighting N32.8 billion Nigeria Police Pension funds scam implicates a Permanent Secretary, Atiku Abubakar Kigo and top senior officers in the Federal Civil Service.<sup>57</sup> The World Bank report, Africa Development Indicators 2010, notes that most studies on corruption focus on an exchange of money – bribes to powerful political designees or kickbacks to public officials. This World Bank report instead focuses on the way ‘quiet corruption’ leads to an increasingly negative expectation of service delivery systems, causing families to ignore the system. Quiet corruption, although smaller in monetary terms, is particularly harmful for the poor, who are more vulnerable and more reliant on government services and public systems to satisfy their most basic needs. Shanta Devarajan, Chief Economist for the World Bank’s Africa Region said, ‘*Quiet corruption does not make the headlines the way bribery scandals do, but it is just as corrosive to societies.*’<sup>58</sup> Reform of the public service, especially the civil service is a precondition to the fight against corruption.

*Police Reform:* It is not uncommon to see the Police, constitutionally empowered to preserve and protect the people by ensuring law and order actually undermine their sacred mission. Originally set up and paid to protect human lives and property, the Police have become a law unto themselves, unashamedly requesting and collecting bribes from motorists on our roads, extorting money from the weak and defenseless, and unlawfully detaining citizens with a view to extortion and in some cases clandestinely killing their victims without due process. During electioneering campaigns, they are generally overzealous in protecting the government or ruling party by intimidating and sometimes killing innocent voters perceived to be in support of the opposition in the name of maintaining law and order. In the recently conducted Presidential and Gubernatorial elections in Nigeria, where many innocent civilians lost their life while performing their civil duty,<sup>59</sup> Nigeria’s then Acting Inspector General of Police (now Inspector General) once admitted that the police are an exceedingly rotten lot.<sup>60</sup> In one of his earlier meetings with senior police officials, he warned commanders that they would be held personally responsible for any corruption or indiscipline that occurs by their subordinates from then onward. Interestingly, he was reported to have admitted the decay in the police force<sup>61</sup> To be sure, what IGP Abubakir said merely echoes public sentiments about the Police and corroborates the United States indictment of the Nigeria Police Force (NPF), that corruption in the institution remained very rampant.<sup>62</sup> For example, even with the clearly worded and detailed Administration of Criminal Justice (ACJ) Act, 2015 which re-emphasized that bail is free, in practice the Nigerian Police still collects exorbitant amount to effect bail. The Act provides that bail should be effected within 48 hours<sup>63</sup> but in reality, victims are kept for longer until they pay for their bail. Although, such victims of police extortions have the right to report to the Public Complaints Rapid Response Unit<sup>64</sup> (PCRRU) for refund but due to ignorance and fear of further uncertainties, the common man may prefer to suffer in silence. The PCRRU is said to have recovered and returned over N7.5M illegal bail funds which they have returned to victims of such illegality. But the fact remains that many Nigerians are not even aware of this initiative. This is aside from police extortions from motorists which has grown to be a norm among them. The public is highly skeptical about the police. Reform of the Nigeria Police Force has to be institutional and must incorporate raising the quality and

<sup>56</sup>The World Bank, ‘Quiet Corruption Undermining Development in Africa’

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/0,,contentMDK:22501207~pagePK:146736~piPK:146830~theSitePK:258644,00.html>

<sup>57</sup>Vanguard, ‘Pension scam and the faces of corrupt officers’ at <http://www.vanguardngr.com/2012/04/pension-scam-and-the-faces-of-corrupt-officers/>

<sup>58</sup>The World Bank, *ibid.*

<sup>59</sup>The ICIR ‘How violence marred 2019 Presidential Poll’ available @<https://www.icirnigeria.org/2019/02>

<sup>60</sup>‘Nigeria’s Police Chief Vows to Crack down on Corruption’ at Christian Science Monitor, <http://www.csmonitor.com/World/Africa/2012/0214/Nigeria-s-new-police-chief-vows-crackdown-on-corruption>

<sup>61</sup>*Ibid.*

<sup>62</sup>‘Nigeria: Police Force Is Corrupt, EFCC Not Sincere - U.S.’ at AllAfrica online, <http://allafrica.com/stories/201205270236.html>

<sup>63</sup>Onu, G. and Momoh, A., *Electoral Violence and the Role of Police in Nigeria Nigerian Political Science Association*

<sup>64</sup> Sahara Reporters, ‘Have you paid bail money to the police in 2018? It is illegal, available @ [saharareporters.com/2018/11/30](http://saharareporters.com/2018/11/30)

standards for recruitment, appointment, salaries and emoluments of force members, including a template of unimpeachable integrity for those who want to serve as police officers supported with the requisite resources.

## **6. Global and Regional efforts in the Fight against Corruption**

The United Nations Convention against Corruption (UNCAC), 2003 and the African Union Convention on Prevention and Combating Corruption (AUCPCC), 2003 both provide a political framework and main policies for the formulation of the anti-corruption programme. These policies strive to provide strategic approaches and policy research analysis along with capacity building, training, peer learning, information sharing and documentation of the anti-corruption best practices in Africa. It is a project which involves all levels- Regional, sub-regional and national levels to support national anti-corruption initiatives and institutions. It also recognizes non-state actors like civil society groups, private sector and the media in its anti-corruption agenda. It tries to adopt a more holistic approach by capturing the multi-dimensional nature of the challenges posed by corruption in Africa, thereby complementing the objectives of the strategic plan of the AU Advisory Board on Corruption.<sup>65</sup> Recently, the AU has been more involving in the anti-corruption fight by adopting its AUCPCC which is a regional instrument to fight corruption in the Continent. The Regional body has established the AU Advisory Board on Corruption (AUABC) to facilitate dissemination of knowledge that could help fight corruption at both regional and national levels. The body has succeeded in formulating certain regional instruments to facilitate its objectives as will be itemized below: African Forum on Fighting Corruption; The African Union Convention on Preventing and Combating Corruption (AUCPCC); Establishment of the African Union Advisory Board on Corruption-(AUCBC); Pan-African Body of National Anti-Corruption Institutions; etc. Nigeria has ratified some of these instruments. Even after ratification, implementation of the Convention signified by its signing and ratification remains low among state members. This Regional Convention is almost silent and over shadowed by the UN Convention Against Corruption (UNCAC) which is one of the binding international anti-corruption instrument. The Convention enjoins state parties to establish, maintain and strengthen independent national agencies and acquaintances to fight corruption.<sup>66</sup> State members should adopt preventive measures, policies and practices to fight corruption.<sup>67</sup> State parties should prevent corruption in the private sector,<sup>68</sup> individuals and groups should be actively involved in the fight against corruption,<sup>69</sup> and bribery should be criminalized.<sup>70</sup> The Convention places states under obligation to criminalize embezzlement,<sup>71</sup> illicit enrichment,<sup>72</sup> laundry of proceeds of crime,<sup>73</sup> concealment,<sup>74</sup> obstruction of justice,<sup>75</sup> participation and attempt,<sup>76</sup> International cooperation is to be encouraged<sup>77</sup> and mutual legal assistance in the fight is guaranteed.<sup>78</sup> The instrument was very elaborate and helpful guide to member states in the fight against corruption. All these Nigeria has effectively done through the establishment of the Code of Conduct Bureau (CCB), Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) Acts. The EFCC was to carry the global fight to the local level through its 'Establishment Act, 2004. It has the near power of the AUCPCC as it has the power to prevent, investigate, penalize and prosecute all economic and financial crimes while also enforcing the provisions of related laws like the Money Laundering Act, 1995, Money Laundering (Prohibition) Act, 2004, Economic and Financial Crime Commission Establishment Act, 2004, the Advanced Fee Fraud and Other Fraud Related Offences Act, 1995, the Banks and Other Financial Institutions Act, 1991 as amended, the Failed Banks (Recovery of Debts) and Financial Malpractice in Banks Act, 1994 and Other Related Acts like the Penal Code and Criminal Code. Also, in line with the AUCPCC, the EFCC has the power to investigate into people's property where it appears the person is living above his means.<sup>79</sup> According to Ibrahim Magu, the current Acting Chairman

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<sup>65</sup> 2018 Regional Youth Consultations, the African Governance Architecture (AGA) [aga.platform.org](http://aga.platform.org)

<sup>66</sup> Article 5 of the AUCPCC

<sup>67</sup> *ibid*

<sup>68</sup> Article 9

<sup>69</sup> Article 13

<sup>70</sup> Article 15

<sup>71</sup> Article 17

<sup>72</sup> Article 20

<sup>73</sup> Article 23

<sup>74</sup> Article 24

<sup>75</sup> Article 25

<sup>76</sup> Article 27

<sup>77</sup> Article 43

<sup>78</sup> Article 46

<sup>79</sup> Article 8

of EFCC, the Commission as part of its achievements in 2018 has achieved 204 Convictions in the Country<sup>80</sup> and the implementation of the AUC in Nigeria is 80%.<sup>81</sup> As at February, 2018, N473.065 billion has been recovered as stolen money in local currencies, ₦294,851, Durham 443,400, South Africa Rand 70,300 in foreign currencies and \$98.2M.<sup>82</sup> Also, two convictions were secured same year against a former Governor of Taraba State-Jolly Nyame, and a Senator and former Governor of Plateau state- Joshua Dariye. Both serving 14 years jail term for misappropriation of public funds, breach of trust and receiving gratification. The Commission also secured the conviction of a Senior Advocate of Nigeria- Joseph Nwobike who tried to pervert justice. The CCB was maintained to check corruption among Public Servants since 1989. The country's pioneer anti-corruption agency is commissioned to ensure high moral standard of accountability, integrity and morality among public servants in line with the provisions of the AUCPCC.<sup>83</sup> It ensures declaration of assets by public officers before, during and after service among other things. A breach of the CCB Act is referred to the Code of Conduct Tribunal (CCT) which was established by the CCB, Act 1991.<sup>84</sup> In 2018, the CCT convicted 16 political officers and civil servants out of 55 defaulters at the local, state and federal levels, for non-declaration of assets within the three month period stipulated in the CCB Act.<sup>85</sup> However, despite these achievements, the fight against corruption in Nigeria is still at its lowest ebb, probably due to the wide spread of corruption in the country, executive control of the anti-graft agencies, bad government and government high participation in corruption, poor and slow implementation, poor funding etc.

## 7. Conclusion

Corruption is neither localized nor an exclusively Nigerian or African phenomenon. It has long assumed a global dimension. The difference is that in other continents honest and sincere actions are being taken against it. The Council of Europe described corruption as a denial of human rights, a hindrance to economic and social growth, erodes the rule of law; and undermines the confidence of the people and in democracy.<sup>86</sup> Even the United Nations Office on Drugs and Crime (UNODC) has facilitated member countries of the UN to agree on the *United Nations Convention against Corruption*.<sup>87</sup> Africa's destiny is neither in the constellation of stars nor some mysterious interplay of celestial forces. It is neither in the hands of the Arabs, Caucasians, Chinese, nor Indians. Africa's destiny rests squarely with its own people (Africans), and in its own hands. It is disheartening that against the backdrop of efforts being made in other lands against the cankerworm of corruption the Pan-African initiative by either the African Union (AU) or various regional bodies appears to be slow in yielding results. The *Revised Arusha Declaration* is one by the World Customs Council affirming that a priority for all Governments should be to ensure that Customs is free of corruption, requiring firm political will and a sustained commitment to the fight against corruption, as agreed at Arusha, Tanzania, on the 7th day of July 1993 and revised in June 2003.<sup>88</sup> Anti-corruption crusaders have done tremendously well in highlighting societal ills and in charting the trajectory for the ship of State. As important as their campaigns have been, are and will continue to be, in concrete terms, progress has been relatively slow and could remain slow for a long time unless we embark on fundamental reforms. We must, therefore, look beyond another generation of anti-corruption crusaders to entrench progressively essential policy, legal and institutional reforms that promote good-governance in the forms of greater tolerance, transparency and accountability, prioritizing merit over loyalty and nepotism. This responsibility is not only for freedom/anti-corruption crusaders. All men and women of goodwill must stand up to be counted in the fight against corruption. In the light of this, the following recommendations are further made; both formal and informal methods must be engaged in the fight against corruption. In other words, both government and non-governmental groups should be involved to effect a behavioural change and monitor these changes until they become a way of life of the people. Government should invest in institutions and policies while employing the best of tested and trusted traditions and legacies. Rather than believing only in the imported models because what may work in one part of the world may not necessarily work in another due to behavioural patterns

<sup>80</sup>Daniel Kaufmann, 'Global Governance Direction of the World Bank Institute', Commenting on the Costs of Corruption-28/4/2004. Cited by Mahmoud Moustafa-info@tamimi-com in his 'The Effects of Corruption on Economic Development

<sup>81</sup> ibid

<sup>82</sup> ibid

<sup>83</sup> Article 7

<sup>84</sup> Section 20 of the CCB Act, 1991

<sup>85</sup>The Sight News, 'Nigeria Working to Implement the AU Convention on Preventing and Combating Corruption -available @thesightnews.com/2018/12>

<sup>86</sup>Council of Europe Resolution 97 (24) at <https://wcd.coe.int/ViewDoc.jsp?id=593789>

<sup>87</sup>See [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

<sup>88</sup>81st/82nd Council Sessions and 101st/102nd Council Sessions respectively. See

[http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/Declarations/Revised\\_Arusha\\_Declaration\\_EN.pdf](http://www.wcoomd.org/files/1.%20Public%20files/PDFandDocuments/Declarations/Revised_Arusha_Declaration_EN.pdf)

and outlooks of the people. Anti-corruption measures should be aligned with social, behavioural and market forces. Integrity standards should be adopted in business ideas. The role of sanction in any society cannot be over emphasized. Placing a heavy punishment for corruption is vital for effective fight against corruption. No one should be treated as a sacred cow. Presidents and Governors should be made to account for corruption perpetrated while in office and sanctioned. The Media should be effectively involved. The anti-corruption fight should not be localized. Citizens should be engaged in the fight both locally, nationally and globally. There should be no hiding place for offenders and no stone should be left unturned. International assistance should be leveraged to encourage and sustain good governance. And finally, continuous strategizing, monitoring and evaluating should be encouraged until the country achieves stability.