

JUDICIAL CORRUPTION AND ITS CHALLENGES TO THE ADMINISTRATION OF JUSTICE IN NIGERIA*

Abstract

Corruption is a popular word in Nigeria. The word corruption can also be interchangeably used with phrases like 'business as usual' 'the Nigerian way' and much more other expressions has that become a custom, practice and way of life of Nigerians over the years. Corruption has become endemic in Nigeria such that there is no section of Nigerian society that can be said to be free of this menace. Every sector of the economy in Nigeria is tainted with corrupt practice and none is exempted. The administration of justice in Nigeria is a key sector of the Nigerian state and the judiciary stands at a vantage point in this department and where the judiciary is corrupt, the administration of justice as a sector and system and unit becomes sick and weak and this has a serious negative impact and effect in the entire economy. The judiciary as an arm of government lubricates the other two organs namely the executive and the legislature, and without a bold, independent and fearless judiciary, the country no doubt will be in doom. The judiciary interplays with other agencies and institutions in the administration of justice and these bodies also play one role or the other in either igniting judicial corruption or aiding the menace. Thus, agencies like the police, the EFCC, the immigration service and other professional organizations including the Nigerian Bar Association one way or the other contribute to the growing and increasing rate or rise in the corruption index among judicial officers in Nigeria which indeed is a challenge to effective and efficient justice delivery in Nigeria. This article aims at examining critically the issue of judicial corruption and its impact on the administration of justice in Nigeria. In addition, the objective of this paper is to find out the remote causes or judicial corruption, the categories of judicial corruption in Nigeria as well as challenges towards fighting and nipping this menace in the bud in the country. The paper also looked at how other factors outside the judiciary has indeed promoted corruption in the sector and has by that crippled administration of justice. It was found out that the corruption in the judiciary in Nigeria from available records has gone beyond proportion and is seriously hampering effective justice delivery and must be fought headlong. At the end, recommendations were made on how best to address the situation.

Keywords: Corruption, judicial officer and judicial corruption and administration of justice.

Introduction

Of late, the judicial arm of government in Nigeria has come under serious attack by many concerned and well meaning Nigerians as a result of the widening corrupt practices among the rank and files of this key sector of the country's economy¹. Most painfully, judicial officers in the superior courts of records and even those in the lower courts have become entangled in this social vice such that there is no gain repeating the fact that corruption in the judiciary has rapidly and proportionately grown to the level and point where it is now a life style in Nigeria. Judges and Magistrates are neck deep in the act of receiving and taking bribes from litigants and their associates, received gratification and other unearned benefits from different categories of people and as this continue, the decisions of the court and outcome of matters are predetermined from onset even without trial or before a case is concluded. The unholy alliance between the members of the bench and the litigants more often than not is usually facilitated by some members of the Bar who are inclined to and are often notorious in their penchance for corrupt practices. Some other times, other staff of the judiciary aid judicial corruption and they do it with such impunity and this has impacted negatively on the smooth operation of this important arm of government. The categories of staff in this respect include the Chief Registrars, Deputy Chief Registrars, registrars and even the judge's typist, or legal assistant, orderly and drivers. These people solicit for bribe and gratification for the judicial officers from the litigants and unsuspecting members of the public. This set of persons makes promises they know they cannot fulfill and sometimes collect money from litigants assuring them that the court will determine the case in their favour. In some worst case scenarios, a court may have about 4 support staff and clerks and in line with our argument above, each of them collects bribe or gratification and tells their prospective litigants before the court that they will win the case. This promise, many a times, does not work because the court can only take one position on the matter at any given situation and what happens where all of them wants the judge to give decision in their favour.

It must be stated and frankly too that corruption in the judiciary affects the smooth operation of the administration of justice in Nigeria, the delivery of justice to the populace is hampered seriously in Nigeria owing to corrupt practices among the personnel of the courts. Besides the judges and staff of the court, other factors pushing from outside contribute immensely to the negative trend in the judiciary hence corruption in some institutions that play key role in

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¹ A.U. Abonyi 'An Appraisal of the power of EFCC and DSS to investigate and prosecute serving judicial officers, *COOU Journal of Private and Public Law*, VOL 1 NO 1 2020.

the administration of justice also hinder progress and success in the sector. The activities of institutions like the Nigerian police, the economic and financial crimes commission, Nigerian drug law enforcement agencies, the independent corrupt practices commission, the Nigerian Correctional Service and the Immigration Service visa viz the Customs has instead of nipping corruption in the judiciary on its bud rather enhanced its spread.

The personnel and men of these agencies engaged in law enforcement have in many circumstances and situation encouraged delay and frustration of administration of justice in the country. We are living witnesses on the incidences of police officers compromising 'a complaint' lodged by citizens over the offences committed by other citizens. In many instances, these agencies fail to do what they are required to do and some other times, they do it in the most shoddy manner which usually cannot stand the test of law during trials in court. A good illustration is cases where at the point of investigation of a complaint, a defendant raises 'a defence of alibi' and the police fails or refuses to investigate the alibi raised either by mistake or deliberate or compromised not to do the needful, no doubt, the prosecution's case will collapse once it is established that a case of alibi was timeously raised during investigation but nothing was done thus leaving the court to 'speculate' whether the defendant actually was the culprit since he was at another place when the incident occurred. Another good example is where in the investigation of a case of murder or culpable homicide, the police fail to conduct autopsy on the deceased before arraigning the accused and allows the deceased to be buried even before the trial commenced. This no doubt is pathetic. The prosecutor cannot do magic and court gives decision based on evidence before it.

The court is the last hope of the common man² the essence of justice is to ensure that fairness is given to all the parties in every particular case or situation³ the judges play significant role in making sure that justice is done. However, because of corruption, the attainment of justice in Nigeria is usually a herculean task. Corruption is indeed the greatest challenge to the administration of justice⁴ the corrupt judge is more dangerous and harmful to the society than a man running amok with dagger in the street⁵ the man can physically be restrained but the corrupt judge deliberately destroys the moral foundation of the society and does incalculable distress to individuals through abuse of his office and other manipulative tendencies.⁶ The judge in our candid view must be above board and refrain from corrupt practice so as to sustain the confidence and the trust the masses have in the judiciary as fountain of justice and defender and protector of the civil and political rights of the citizenry.

Although corruption in the judiciary has remained a great force against the administration of justice in Nigeria, the dominate view is that the menace can still be tackled and controlled. This effort if successful will bring back the glory and respect with which he judiciary has been known with for decades and will no doubt ensure a stable administration of justice. Unless the corruption in the judiciary is addressed, administration of justice cannot be stable and in the absence of justice, there cannot be respect for rule of law, democracy and a society where the two concepts above are lacking is dead. Owing to this, all hands must be on deck and the fight against corrupt practice in judiciary must be total, sincere and transparent.

2. Definition of Terms

To appreciate and ensure a comprehensive understanding of the subject matter of this paper, the following terms must be defined.

Corruption

The word 'corrupt' according to the Oxford Advanced Learners Dictionary means: 'an act of willing to use one's power or their power to do dishonest or illegal things⁷ in return for money or to get an advantage.' From the wordings of the above definition, the word corruption can be further explained to mean the following: (i) An act of readiness or willingness to use power, (ii) To do dishonest or illegal things (iii) In return for money or to get an advantage. What it means is that a corrupt official or a corrupt individual knows what is right and proper as well as the laid down process

²Anyi Benjamin, 'the administration of justice in Nigeria and challenges' legal practice at law firm, published 28th December, 2021.

³ Ibid

⁴ Ibid

⁵ ibid

⁶ Ibid.

⁷ Oxford advanced learners dictionary, 8edn, pg 328 parag 10

or procedure for doing things but he or she or them prefers not to do the proper thing or follow the laid down procedure but rather engage in the doing of dishonest and illegal things and this he or she does for monetary rewards or to obtain or get advantage for himself or herself or for themselves. In further amplification of the concept, corruption is the act of obtaining and taking of undue advantage by an individual or group of individuals under the cover of their employment or position. It also means the act of taking undeserved advantage for acting illegally or dishonestly and other than the normal way of doing things. Corruption is a crime including official corruption or even judicial corruption.⁸ Corruption has also been defined as the abuse of public office for private gain⁹. Corruption exists in all tier of government in Nigeria, all organs of government and indeed in all the sectors in our economy. The cardinal point is that corruption is basically the illegitimate use of public power or position to benefit a private interest¹⁰. Senior viewed in 1987 and 2006 respectively which view was adopted by Nwosu which we share that corruption is an action to secretly provide a good or service to another third party so that he or she can influence certain actions which benefits the corrupt third party¹¹ Corruption encompasses unilateral abuses by government officials such as embezzlement and nepotism as well as abuses linking public and private actors or interest¹².

We observe that corruption is not restricted to the above but also include political and bureaucratic corruption. When politicians hijack the process and turn the proper and normal course of doing things to the improper ways, the seed of corruption is planted. Political corruption spreads fast and has penetrated into the judiciary, politicians influence the appointment of judicial officers and once appointed, the judges and magistrates are under bondage because their action is controlled and manipulated by those that influenced and coordinated their appointment. Owing to this judicial independence cannot be guaranteed and this affects the administration of justice.

Judicial Officer and Judicial Corruption

A judicial officer is a person holding an office of trust and honour. The person acting in judicial capacity occupies a position for which there is high expectation of honesty, integrity and discipline. Black's Law Dictionary defines a judicial officer to mean who holds an office of trust or authority or command in the judiciary¹³ From the above definition, the judicial officer occupies a critical and strategic position in the society especially as it relates to courts and the question about the determination of citizens' rights and privileges. The expectation of the society is that the court and indeed the heads of the various court must work hand in hand with each other towards impacting on the lives of the people and ensure the stability of the community. With reference to the constitution of the federation, a judicial officer is a person holding a judicial office¹⁴ Such office in Nigeria includes the office of Chief Justice of Nigeria, President of Court of Appeal, Chief Judge of Federal and State High Courts and so on.

Our candid and fair view is that the position of a judicial officer in any country is an enviable position in that society and is built on high sense and level of trust and integrity which should be devoid of any questionable behaviour. A judicial officer is also a public officer within the provisions of the Interpretation Act and hence is expected to uphold the ethical values in the code of conduct for public officers in the exercise of his official duties¹⁵. A judicial officer is not expected to engage in official corruption which refers to act or acts which has unlawful or depraved motive and usually influenced by bribery. The person who invites and the person who gives are all parties engaged in corruption. This official corruption most particularly in the judiciary which is specifically referred to judicial corruption injures the society badly as it weakens the values of discipline, honesty and integrity of judges among the people. It involves asking for, receiving or obtaining property or benefit corruptly for oneself or for another in the exercise of one's official duties¹⁶.

⁸ A. U. Abonyi, 'Appraisal of the powers of EFCC and DSS to investigate and prosecute serving judicial officers in Nigeria' *COOU Journal of Public and Private Law*, Vol 1 No 1, 2020.

⁹ U.W. Nwosu 'the impact of corruption in the admin of justice in Nigeria, *Journal of Good Governance & Dec in Africa* Vol 4 No 1, 2018 pg 2.

¹⁰ Ibid

¹¹ ibid

¹² ibid

¹³ Black's Law Dictionary online.com. Accessed 24/3/2022.

¹⁴ Constitution of Federal Republic of Nigeria 1999 (as amended), Part IV, Section 318

¹⁵ Section 18 of the interpretation act C23 Laws of federation of Nigeria 2004, See also fifth schedule part II Section 19C5) of 1999 CFRN and section 98D of criminal code Act C28 2004.

¹⁶ Section 98 A, B, C of the Criminal Code Cap C38 2004.

Administration of Justice

The justice sector is among the key areas of a nation's economy. This is because, the operations of the sector affect the lives of the members of the community. The judiciary and particularly the courts presided over by the judges and magistrates administer justice to enhance the enjoyment of rights, liberties and other privileges by the citizens. The courts also facilitate the enforcement of rights flowing from contracts and other relationships and determine who is held culpable and liable for commission of crimes known to law. Administration of justice therefore means process and procedure leading to fair treatment of parties in a matter before a court or tribunal as case may be. Administration of justice in every society involves a process of protecting the lives and properties of the people by ensuring that laws, rules and orders made or created in a such community are not only obeyed and observed but are fairly carried out or enforced to secure the confidence and trust of the people on the government of the state and her agencies. At the pre-colonial period, most traditional communities in the south and even in the north adopted the principles of customary law, tradition including Islamic laws in settling disputes among individuals. There are customary norms and values adopted as sacred guide and rules prescribing standards to ensure peace and harmony and to bring offenders of such norms to book. There were local courts or customary tribunals to enforce these customs and traditions. This was administration of justice at its local setting or set up but improved and today adopted in our regular courts, tribunals and panels.¹⁷ Administration of justice is key to the preservation of the rights of citizens of Nigeria and sustainability of the rule of law. Judiciary as the bastion of democracy and fountain of justice and must be free from corruption. Once the judiciary is enveloped in corruption, it portends doom for administration of justice and by extension the poor masses will be at the receiving end and the suffering cannot readily be estimated.

3. Discussion on Judicial Corruption and its Challenges in the Administration of Justice in Nigeria

The 'Nigeria factor' a phrase used interchangeably with corrupt practices is not akin or peculiar to a particular institution in Nigeria. The menace is like a river that has no limit in its movement and spreads to any place or area that there is access for such movement. In the administration of justice, many stakeholders are involved and none can do without the other. However, the court is central and occupies a vital position in the justice administration of any society. In administering criminal as well as civil justice, the court cannot take the blame alone in the corrupt practices that slow down the system in Nigeria. The judges no doubt have their blame but aside the judges, the police and other agencies, the defence attorneys, the executive and legislature have one blame or the other in the escalating corruption that mars the administration of justice¹⁸

Categories of Judicial Corruption in Nigeria

It is important that in looking at the corruption in judiciary which undermine the administration of justice, one may be tempted to make the following classifications for a comprehensive understanding and appreciation of the subject.

Petty corruption

Petty corruption greatly affects the administration of justice in our courts. Petty corruption means that type of corruption carried out by the court personnel including officers in the registry, bailiffs and sheriffs, court clerks and messengers and cleaners in the court.¹⁹ These staff who are mainly support staff of judicial officers mingle with the litigants and make flimsy and careless promises to the litigants ranging from that they will talk to the judge or judges assistants so that their matters are assigned to courts of their choice or even solicit for bribe and gratification for and on behalf of the judges even without the knowledge of the judge and sometimes receive such monies or gratification and expose the judges to problems and tight corners. For the judges who are lose, they are put in a fix because each of the clerks collect their respective 'gratis' without knowing that the other colleague has collected the same thing. In this situation, it becomes difficult for the judge to take a stand²⁰. This type of corruption is indeed a torn in the flesh of the judiciary and indeed affects administration of justice. Any of the two situations is bad namely where the clerks collect the money with judge's knowledge and another where he does not know.

¹⁷ M. A. Umar 'police corruption and administration of justice in Nigeria' NAUJILJ 9 (1) 2018. Accessed 20/3/2023

¹⁸ *ibid*

¹⁹ A. U. Abonyi 'democratisation of corruption in Nigeria, an appraisal' being a paper presented at the annual law week of NBA, Nnewi branch 2021, conv. event centre Nnewi, 21st April 2021.

²⁰ *ibid*

Political corruption and the judiciary

Corruption in the judiciary which also affects the administration of justice arise as a result of political infiltration and control by the executive and legislature especially through appointment, promotion and remuneration as well as removal of judges from office²¹. Independence of the judiciary is no longer guaranteed in Nigeria. Though the constitution of Nigeria created the three organs of government²² and vested them with specific duties and each expected to discharge its duties without fear or favour, most of the time, the executive and the legislature for their selfish ends makes such difficult. There will always be corruption in the judiciary because the executive and the legislature have held the arm hostage even though is expected to be an independent arm of the government like the other. In judge as appointment, merit is not observed rather the governors especially for state high courts handpick either their relations or relations of their political affiliates and hand their names to the chief judge of their respective states for onward recommendation to the national judicial council. There is nothing like screening examination to select the among the applicants to the coveted office those who has the qualification, the experience and all it takes. In many states some applicants who are both in practice and in the academia and who are still within their youthful ages are not selected because they have none of their uncles or fathers as commissioners, ministers, senators or party chieftains. In some situations, old lawyers who sometimes are heading to sixty years are appointment, at some other times, old magistrates very close to their retirement are recommended for appointment while the young able bodied men and women with passion to serve as judges are denied opportunities. Even the state judiciary service commissions are mere appendages to the governor as members do not and say nothing. There are cases where in some states the appointment of judges is among relations of present and past commissioners and politicians in the state. The trend has become terrible that even in some states, police detectives in their different departments and even some lawyers employed in some agencies in the country like EFCC and others are handpicked by governors and recommended for appointment as judges. Sometimes such persons who are handpicked and recommended and without showing interest by applying for the job and are shortlisted only to reject the appointment while those with the passion to serve are left out. What is a police detective or EFCC operative doing as a judge? At the federal level, there seems to be a little improvement than in the states but a critical review of the situation will show that there is no difference as to what happens in the state and at the centre. We say so because with the powers enormously vested in the chief justice of Nigeria as the chairman of NJC, the appointment of federal judges is indeed within the whims and caprices of the chief justice of Nigeria and the president. Apart from the fact that the executive play vital and most times questionable roles in the appointment of judges, judges remuneration and promotions are also controlled by the executive and corrupt practices comes into play as some judges who have demonstrated excellences and rare ingenuity in the work may likely not be promoted as and when due for one reason or the other and more often for not acceding to give decision one way or the other in favour of the interest of the leaders in government or in favour of the interest of the party in government. Mostly in Nigeria, politicians influence promotion and jacking up of remuneration of judges' during election year so as to influence their judgments in pre and post election litigations. It is also noted that in the recent times, there is also corruption in the appointment of judges to sit in different election tribunals and other high profile political cases. This should not be the case.

The legislature is not left out in the issue of corruption in Nigeria judiciary. The president or the governors make recommendations for appointment of judges of Federal High Court, State High Court and even the High Court of the federal capital territory as well as national industrial court. Not only that in many cases, the persons so recommended are handpicked, the NJC does little or nothing but rather submits the names as recommended and more often than not both the national assembly and state assemblies do little or no screening for the handpicked individuals but rather confirms their appointment after the ground has been so watered by 'a yes vote' the yes have it. Very laughable procedure in deed. As a legislature, they ought to have developed a strong legal frame work for strengthening the mechanism for appointment of judges to mainstream in towards ensuring transparency and create a level playing ground for all aspirants to the bench like running an open competitive examination for all aspirants to the bench. This encourages openness and inclusiveness in the process and will create opportunity for those who has the potential but has no 'god father' to be selected. Critically, even the involvement of NBA of late has not brought any change or improvement at all.

²¹ *ibid*

²² *Ibid*, see also section 4, 5 and 6 of 1999 CFRN as amended in 2011.

Forum Shopping and Commercialization of Court Orders/ Judgments

Another area of concern as it relates to corruption in Nigerian judiciary which is affecting administration of justice is the issue of forum shopping in courts and commercialization of court orders and judgments.²³ Sadly, in Nigeria, with the help of some corrupt judges, and other corrupt court personnel, litigants engage in what is called forum shopping. Forum shopping is a process where litigants influence the assignment of their matters to their preferred courts or to the courts where they perceive or are made to believe that they will obtain any relief or reliefs they want whether they deserve it or not. Forum shopping also involves a situation where a litigant and his or her counsel leaves the jurisdiction where the cause of action arose and moves to another jurisdiction and files the suit with the expectation of advantage to himself and disadvantage to the adverse party²⁴ In the recent times, forum shopping has noticeably been adopted by parties in fundamental rights actions both at the level of state high courts and federal high court. There was a time in some states where parties and their counsel left the divisions where an act leading to the violation of rights of the applicants arose to other judicial divisions. The reason usually advanced have always been that some judges are more disposed to granting applications for enforcement of fundamental rights in favour of citizens while some other judges are so affiliated to the state authorities and have this belief that granting such applications will amount to preventing state law enforcement agencies from doing their job. Our view is that every case is decided on its merit and judges should be above board to know where and when a transaction borders on contract or land or at best civil in nature and others that are criminal in nature and they should be above board to dispense justice fairly and without fear or favour. Where a judge sees from the facts of a case that the transaction is civil and contractual and accedes to the intrigues of state authorities that a case of ‘piracy or passing off’ is now a case of warehouse breaking and armed robbery or illegal possession of arms because his hands has been soiled and he refuses to grant applicants application but rather dismiss the application and empower the state to go on discharging their role of prosecution of crimes within their constitutional duties, this no doubt is corruption perse. Forum shopping at a time was very popular in one of the states in the eastern Nigeria especially in the areas of enforcement of fundamental rights and political cases until the chief judge of the state raised a sledge hammer on that and put a stop to it and made a direction that any political case filed in any judicial division of the state must be forwarded to his office by the assistant chief registrar of such division for assignment by himself to any judge. This was a saving grace to the already worsening tension created by that practice. Similarly, the issue of the forum shopping in fundamental rights was also stopped by his lordship’s stand.

Collapse Of Ethical/Professional Values/ Codes Among Judges and Lawyers And Weak NJC

Another area of concern is the collapse of ethical and professional codes and values among lawyers and judges and the lack of will by the national judicial council (NJC). The administration of justice in Nigeria has suffered seriously owing to the failure of judges and lawyers to observe the ethical and professional codes and values for which the legal profession was established by the founding founders²⁵ The judges and lawyers especially the most corrupt ones are so affiliated and connected in their relationship such that judges refer clients to such lawyers and lawyers ensure that such cases are assigned to the judge or judges concerned. What will be the fate of the adverse party, of course from day one, he has lost the case? In high profile political and financial cases, lawyers especially the senior ones mingle with the judges to the extent that the lawyers become go between and middlemen between the judges and the litigants in soliciting for and receipt of gratis and bribes as well as gifts. It is not only limited to senior lawyers as the young one’s romance and develop friendly ties and close affinities with the judges support staff and through them, they can easily get to his lordship. The recent case of Dr Nwobike (SAN) who was arraigned at Lagos High Court for offence ranging from using his position as a legal practitioner to pervert the court of justice, he was convicted and his conviction later set aside by Supreme Court on the reasons advanced by the court. This is still an eye opener. Though, the supreme court’s decision is final on the matter, there is no gain restating the fact that the activities of some legal practitioners in Nigeria which Ipso facto undermines the administration of justice in the country is within the public dormain and leaves much to be desired. The case above decided by the supreme is one among many involving lawyers and judges and this has indeed eroded the confidence and trust the masses have on this hallowed arm of government as the last hope of the common man and the bastion of democracy in every civilized society.

²³ Ibid

²⁴ Uwais JSC (as he then was) Warning Against Forum Shopping In Our Courts ‘Comments During The NBA Spidel Conference, 2018’ Spidel Online.Com. Accessed 20/3/2023

²⁵ A. H. Ezeike Okafor, comments and views on judicial corruption and challenge to justice delivery 2021 law week, NBA, Aguata Alex Ekwueme Hall, March 2021.

In addition to the above, many legal practitioners are specialists in the advancement and promotion of technical justice than substantial justice and adopt many crooked strategies to frustrate a party with genuine cause of action so that such a person may be depressed and abandon his case. In many situations, motions upon motions and objections are raised on mere frivolities and where the judges fall victim of not deciding to reserve the ruling till the final judgement, once a bench ruling or interlocutory ruling is made, the next day, the supposed applicant who filed the motion which was either dismissed or partly granted files and serve on the adverse party notice of appeal and possibly a motion for stay of the substantive suit. By this action, the main suit suffers especially where it is a civil appeal and sometimes even in criminal appeals and due to how desperate the counsel and the litigant maybe, the whole process lingers on and on up to the supreme court.

Aside the above, some lawyers are experts in writing letters of adjournment with flimsy or no reason at all and for some judges who also have non-challant attitude to their duties, they condone such activities and so it goes on and the plaintiff will be frustrated. Painfully too, some judges do not come to court and when they decide to come, they are always late in court and will not have sense of politeness to even apologize to the bar for such unwarranted lateness. The national judicial council is also a lame dock, her seeming silence in the face of all the corruption among the judicial officers have left many Nigerians to conclude that there is no longer any need for the council. Not only that the council is an appendage of the Chief Justice, the council has been caged by the politicians and even by the those inside the council, the council of late have been in the habit of shielding corrupt judges whenever law enforcement agencies pounce on them for noticeable corrupt practices, this is the dominant view among Nigerians which we share completely. The council do not have an independent say of its own and that is why even where persons whom they know lack merit to be in the bench are recommended considering their character, education and learning and their age, they close their eyes and confirm because one way or the other the president is interested, members of the senate or house of representatives are interested, the governors, their fathers, or mothers are serving judges or emeritus judge and so on, those who do not fall into any of these categories no matter the qualification and character and vibrancy will not be selected. Recently, the chief judge of the federal high court somehow took the step of having synergy with the NBA in which case lawyers seeking to be elevated to the bench in the court are required to forward their expression of interest to NBA and so on. There is still the issue of a new wine in an old keg, all will end up in hand picking from those that expressed their interest in so far as there is no screening examination to be jointly organized by NBA and the office of the chief judge of federal high court. There is also a possibility that some candidates may have applied direct to the office of the chief judge of the federal high court honestly without knowing that there has to be expression of interest to NBA, the question then is how will the two bodies harmonize such case or cases or will those who applied directly to the office of chief judge of federal high court be completely left out in the exercise. This no doubt is not justice and is part of corruption in system.

Corruption among Institutional Agencies Working with Judiciary in the Administration of Justice in Nigeria

Corruption in the judiciary is also influenced by factors outside the judiciary, among the factors are some institutional agencies involved in law enforcement including the Nigerian police, the EFCC, the NDLEA, the DSS, the customs, the immigration and even the Nigerian correctional service (the prisons). Among these agencies, the place of the police and their corrupt practices are much more noticeable and devastating than others. It is indeed obvious as viewed by Mohamed Aminu Umar, of customary and Islamic law department, Nigerian police academy, Wudil Kano that the powers of the police in relation to the administration of justice is enormous and is one area where the police has been criticized bitterly of late,²⁶ police has powers to arrest investigate and prosecute offenders and those suspected to have committed crime created by law, in designated courts, but these powers are thwarted and police render these powers unexercisable because of the negative factors among the officers themselves and Nigerians. Corruption in the police is traced back to the Babangida era where all most all moral values were thrown in the dust like transparency and honesty, the operation of the police became dominated by nepotism, favoritism, villagism, ethnicity, some sections of the country are allowed always to lead the force while some other areas are not allowed, promotions become monetized and tribalised, impunity becomes the order of the day, a police officer suffers and struggles with his meager salary and trains himself up to the university degree, second degree and even terminal degree of PhD and no such degrees count for him in his promotions, you see a person holding first school leaving certificate heading and commanding an officer with PhD but who cannot be promoted on the basis of this high degree,

²⁶ M. A. Umar 'police corruption and administration of criminal justice system in nigeria' available at <http://www.nigerianlawguru.com>. Criminal law. Accessed 20/3/2023

what is so frustrating than this. The police also create avenues for themselves and their officers to perpetrate corruption, the Commissioner of Police in the states expects returns from Area Commanders and DPO's and sector commanders from such Special Unit Commanders of Special Police Squad and by this, the officers within the subunits and divisions above go all out to do all manner of things to hound the members of the public by way of extortion and even sometimes arraign those who did nothing because they could not offer them money to courts. In the courts, these police prosecutors can destroy good cases when they compromise them, same thing applies to police investigators who fail to do good investigations and take the matters to court without adequate preparation or doing what is necessary. Sometimes, they oppose bail where the defendants did not give them money and in situations and instances where they were given money by defendants on their demand, they usually tell the court that they are leaving the bail of the accused to the discretion of the court. The police is a corrupt organization, due to corruption, they have made many criminals to go free and at other times make innocent citizens to be thrown into the gallows. The police treat cases of influential citizens with kid glove and that is why after conducting shoddy investigations such persons go home exonerated for want of evidence. The notoriety of the corrupt tendencies among the police personnel has been judicially noticed in *AG Ondo state v AG Federation*²⁷ where UWAIS CJN (as then was) posited that:

... corrupt practices and abuse of power spread across and has eaten into every segment of the society. These vices are not limited only to a certain section of the society. It is a lame argument to that private individuals or persons do not corrupt official or get them abuse their power. It is right that everyone involved in corrupt practices and abuse of power should be made to face the law in our effort to eradicate this cankerworm.

Abuse of power by police officers amounts to corruption. Where a police investigator after investigation establishes a *prima facie* case against a suspect or suspects and begins to act strange in demonstrating unwillingness to arraign such suspect or behaves in a manner suggesting that he wants to give one or two out of the suspects soft landing to pay a certain sum of money and either go or be made a witness, this cannot be for any other reason than for perceived expected financial reward or gain or benefit to come out from such act. What then is a rationale that the police is a friend, whose friend, the friend of one or those that has the money to give them. Investigators conceal evidence when they have been compromised, during the ill-fated reign of defunct SARS, evidence abound of innocent Nigerians who lost their lives in the hands of these officers because they could not pay the money fixed by the operatives and even those caught in the act but could afford such money were left to go scot free. The police are not be blamed alone, the activities of the judges and officers working in the office of the attorney general of federation and that of the 36 states leaves much to be desired. In the regions where information is preferred direct to courts of competent jurisdiction especially for capital offences like culpable homicide, the matters are preferred and referred to ministry of justice, what later happens with the case is another ball game. In other areas where holding charges still apply like in the south where police takes such suspects to magistrate courts in what has come to be known as 'PE', the charge is read to the accused and he does not take plea, witnesses are bound over where they are available and the registrar of the court directed to transmit the case file to the ministry of justice, and a date taken for report of compliance while the accused is thereafter remanded in custody at the correctional service and reminded of his right to apply for bail at high court. In another scenario, the police and the nominal complainant may inform the court and they should be given time to provide the witnesses, where the magistrate accedes to this, the accused is remanded anyway and who knows when such witnesses will ever come. In other respect, the transmission of the case file may take months and after transmission, it might even take up to a year before the men of the DPP can come up with their opinion on the matter and the accused continues to be on the waiting list for years without information being filed and some judges best described as timorous souls and lily livered finds it hard to grant bail simply because the alleged charge brought against the defendant at the magistrate court is one punishable by death. More worrisome also is the fact that in most cases, the lawyers from DPP compromise the system and make judicial discretion difficult for the judges by receiving money from the accused persons either personally from them or through their fellow corrupt defence attorneys and more often than not do not appear in courts to prosecute the matter or oppose the bail where necessary and some other times where they intend to oppose they file watery counter affidavits suggesting nothing why the bail should not be granted, some other times, they proudly and shamelessly too stand up to tell the court that they leave the bail to the discretion of the court. These concerns above are serious and are real.

Corruption has also eroded other agencies involved in law enforcement and administration of justice like EFCC and ICPC. There are cases where many Nigerians discharged by courts in Nigeria for serious crimes due to lack of

²⁷ 2002 9 NWLR Pt 772 P. 222

evidence and poor prosecution by EFCC officials have been convicted for same or similar charges overseas. The case of some past governors is in our minds in this respect. Even among the men of NDLEA, the customs and the prisons services, corruption is booming too. In the recent arrest and prosecution of suspended Super Corp Abba Kyari, some NDLEA officers appears to be part of the drug syndicate facilitating the trade, customs seize contrabands from criminals, sets them free and conceal the items for their own and justice cannot be done, jail breaks can also be planned and successfully cannot be done without official support. All these are problems to justice administrations.

4. Conclusions and Recommendations

Corruption is a sore that has overgrown in the flesh of the administration of justice in Nigeria. The judiciary and other agencies and stakeholders in justice delivery are neck deep in corruption and none is exempted and unless drastic step is taken, the system is marching for doom in Nigeria. It is our finding that corruption in the judiciary is within the judiciary and other factors from outside play their own negative role. The two forces are fighting for the soul of the judiciary and by extension can mar the administration of justice in Nigeria. Up till now, judges appointed mostly are square pegs in round holes. There is need for appointment of judges based on merit. This is one area that must be given serious attention. Unless, appointment is merit based through competitive examination to be done by independent body outside the government, we cannot get it right. NJC must sit up or be phased out. Police as an institution needs reorientation and attitudinal change and change its harsh practices and policies against its officers especially on promotions. The Bar Association must should stand up to the core values of the association and join in the war against corruption by standing a house clearing of itself.