

**NATIONAL ASSEMBLY LEADERSHIP QUEST FOR IMMUNITY:  
A LEGISLATIVE MISNOMER\***

**Abstract**

*Immunity of public office holders is provided in the 1999 Nigerian Constitution (as amended). The provision only avails such officers as the President, Vice-President, Governor and Deputy Governors of the states of the federation of Nigeria. The essence of the provision of the immunity in the Nigerian Constitution is to avoid distraction of those concerned public officers while in office and protect them from unnecessary litigation in the court of law and to enable them concentrate in governance. Laudable as the intension of the drafters of the constitution might be, Nigerian leaders over time have latched on this constitutional provision to defraud, loot and siphon public funds with impunity knowing fully well that they will not be prosecuted while in office. The Leadership of the National Assembly is now seeking extension of this constitutional provision to them. This paper examined the propriety or otherwise of the National Assembly Leadership quest for immunity. The paper concludes that such request could only pass as a misnomer coming at a time when Nigerians are calling for the removal of immunity clause in the constitution as it encourages corruption in public service of the federation.*

**Keywords:** National Assembly, Quest for Immunity, Legislative Misnomer, Nigeria

**1. Introduction:**

Recently, the Nigeria's representatives in the National Assembly particularly the House of Representatives requested through a Bill that the leadership of the National Assembly be clothed with absolute immunity. In essence, what the hallowed members of House of Representatives are asking is that their presiding officers should not be held accountable for whatever they do against Nigerians while they are in office. The proponent of the Bill argued that the Bill is important because it will safeguard the sanctity of the National Assembly and that the Immunity Bill will provide protection for the leaders of the legislature. The Bill has scaled the second reading in the House of Representatives. It was sponsored by the Representative, Odebumi Olusegun who said that the Bill is important to safeguard the sanctity of National Assembly. He was supported by the Majority leader, Ado Doguwa who said it should be passed for the simple reason that it provides protection for leaders of the legislature considering the important work of the Legislature. However, the bill was opposed by the Minority Leader, Ndudi Elumelu who asked the lawmakers to place the interest of their constituents above personal interest. According to him, 'outside here our people are being killed and butchered. We are coming up with a bill on the issue of immunity while some of us are saying that people should be held responsible for what they do. This is wrong and it should not be allowed'<sup>1</sup>.

The National Assembly Members quest for Immunity Bill is to say the least a legislative misnomer. There is no reason for the bill. The only reason for the bill is to provide cover for the leaders of the National Assembly to be corrupt and to shield them from being prosecuted if they commit any offence against Nigeria and Nigerians. If the request of the National Assembly members for immunity of their leaders is granted, such immunity will squarely place them above the law, which will create dictators in the very institution that should epitomize democracy. Thus, well-meaning Nigerians should rise up against this lurking monster and stop it from seeing the light of the day, to safeguard and deepen our nascent democracy and above all purge Nigeria of corruption which has become a way of life in Nigeria.

**2. Immunity**

Immunity is derived from the Latin words *im* and *munus*. *Munus* means service, ready to serve and the inclusion prefix *im* to *munus* means to exempt from service or to exempt from liability. In legal parlance, immunity can be described as form of a duty, liability or obligation. 'It is a privilege granted to an individual or a corporation conferring particular exemptions.'<sup>1</sup> According to Black's Law Dictionary, it is 'any exemption from a duty, liability or service of process; especially such as exemption granted to a public official'<sup>2</sup> In other words, immunity shield the beneficiary from being liable, prosecuted, arrested on account of his or her office. In *Tinubu v IMB Securities Plc*,<sup>3</sup> it was held that immunity avails to keep the beneficiaries free from harassment, 'to afford the person complete devotion to the high office which pertains to the welfare and stability of governance'. Immunity is considered as a distraction to the public office holders. The beneficiaries of this law hide under its cloak to loot public treasury and claim falsely to be distracted when called upon to render account.

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<sup>1</sup>William Little et al., *The Shorter Oxford English Dictionary on Historical Principal* (3<sup>rd</sup> ed.), Revised and edited by C. T. Onions (Oxford University Press, London, 1972) p.962.

<sup>2</sup> Bryam A. Garner, *Black's Law Dictionary* (7<sup>th</sup> ed.), (St. Paul MN, USA, 1990) p. 752.

<sup>3</sup> (2001) 16NWLR (pt. 740) p. 670

Historically, immunity is rooted or founded on the anachronistic legal principles of *rex non potest, that is, the king can do no wrong*. Therefore, he cannot be sued in his own court. Thus, by virtue of the Crown Proceedings Act, the king was totally absolved of vicarious liability with respect to the tortuous acts of his agents or servants. Nigeria being a colony of the British Government, the Crown Proceeding Act applied to Nigeria even after Independence until in 1979 when the Constitution in section 6 (6) abolished the crown proceeding Act by subjecting government and all government authority to judicial control. In *Chief (Mrs) Olufimmilayo Ransome Kuti v Attorney General of the Federation*,<sup>4</sup> the Supreme Court held that the Federal Government was not vicariously liable for the arson and willful damage to property carried out by its armed agents, but the apex court took the advantage of the case to declare that section 6 of the Constitution has abolished the anachronism of state immunity.

It is the position of the Nigerian Constitution 1999 (as amended) in section 4 that the legislative powers of the federation and the states are vested in the National Assembly and the Houses of Assembly,<sup>5</sup> the executive powers of the federation and the states are vested in the President and Governors<sup>6</sup> while the judicial powers of the federation are vested in the courts.<sup>7</sup> By custom, convention and the constitution, the three arms of government enjoyed reasonable immunity but none of them is granted absolute immunity. The executive is granted immunity from prosecution and civil litigation by the general public but the constitution grants power to the Legislature and Judiciary to try the executive while in office through the impeachment process.<sup>8</sup> The legislature is immune from any prosecution or civil liability arising from anything done or said while carrying out their legislative duties as an institution but they are liable to be tried by the executive and the judiciary for any act done outside their legislative duties while in office. The judges are also immune from the consequences of the judgment they give but can be held responsible for their actions outside the courtroom.

Thus, the quest of the legislature for absolute immunity of their presiding officers is worrisome especially if the immunity they seek is an extension of the one granted to the executive. This is because the executive's immunity is checked and balanced by the legislature and the judiciary who can try the executive while in office through the impeachment process. If the Legislators are granted immunity, who will check their excesses?, nobody. Their immunity will obviously place them above the law and they would become larger than life which will create dictators in the very institution that should be an epitome of democracy. Again, the legislative powers are not vested in the individual legislator but in the institution of the legislature. A legislator is one out of 109 Senators and one out of 360 House of Representatives members. Every legislator has equal right and equal vote. The presiding officers are there to administer the proceedings of the National Assembly. Therefore, the absence of one legislator cannot affect the proceedings of the National Assembly. Thus, the argument that the Bill is important to safeguard the sanctity of the National Assembly cannot fly because the sanctity of the National Assembly has already be safeguarded by the immunity granted to the legislature as an institution. Also the argument that the immunity Bill will provide protection for leaders of the legislature does hold water as well because the leaders of National Assembly are some of the most protected in Nigeria. Their only reason for the quest for immunity is to provide cover for the leaders of National Assembly to be corrupt and to protect them from being prosecuted if they commit any offence against Nigeria and Nigerians. The executive cannot attempt to institute or prosecute the leadership of the National Assembly without any reason because the legislators possess enormous powers against the executive. For instance, Adolphus Nwabara, the former Senate President was tried for receiving bribe. He voluntarily resigned his position as Senate President but continued his membership of the Senate. His resignation did not affect the running of the Senate for even one day. The court, however, later declared him not guilty. His prosecution therefore cannot be said to be an attempt to intimidate the National Assembly because Nwabara was a candidate of former President Obasanjo for the post of Senate President and therefore, he, Obasanjo could not have turned round to prosecute him without any justifiable reason. Also, Bukola Saraki was prosecuted as Senate President by the Code of Conduct Tribunal for inaccurate declaration of assets. He did not resign during this period and nobody compelled him to do so. He faced his trial while presiding over the upper legislative chambers. There was no evidence that his absence stalled the activities of the upper chambers as other Senators are constitutionally empowered to preside over the Senate in his absence. He was however, later freed by the Code of Conduct Tribunal.

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<sup>4</sup> (1985) 2 NWLR (pt. 6) p. 211 @ p. 236-237

<sup>5</sup> Section 4 of the Nigerian Constitution 1999 (as amended)

<sup>6</sup> *Ibid*, section 5

<sup>7</sup> *Ibid*, section 6

<sup>8</sup> *Ibid*, sections 143 & 188

Imagine what could have happened to our nascent democracy if the first Speaker of the House of Representatives, Salisu Buhari had been granted immunity by the constitution and he came in with a forged certificate from Toronto University, Canada. He would have been above the law. Once he could persuade majority of his House members that he was innocent that would have been it. Nigeria would have been a laughing stock abroad. The mere fact that he was triable made him to resign immediately and his trial restored the confidence of the world in Nigeria's democracy. There was no evidence that his exit or trial affected the smooth running of the House of Representatives. It rather strengthened it. The argument of the legislators in support of immunity because it will safeguard the sanctity of the National Assembly and protect the members is a mere ploy to deceive members of the public. They are doing it for their own interest so that if granted, they will use the opportunity to steal public fund.

In a nation like Nigeria, struggling with the issue of corruption, all institutions of government must work hard to close all avenues for corruption. The National Assembly's attempt at procuring immunity for the leaders is nothing short of providing avenues for entrenching corruption in the Legislature and this should be resisted by all well-meaning Nigerians. It is commendable that the Minority Leader of the House, Ndudi Elumelu, who has been a victim of malicious prosecution because of his principled stand against corruption in the power sector, can rise above his persecutions and take a principled stand against the absolute immunity being sort for the Presiding Officers of the Legislature and Nigerians should take a cue from that, reject this dangerous trend and save our democracy.<sup>9</sup>

### 3. Public Office Holders

The next issue that has come to fore for determination is the issue of 'Public Officers' and the question may be asked who are Public Officers? A Public Officer is a person who is holding office in the government, public or civil service.<sup>10</sup> He is a civil servant irrespective of his position or rank.<sup>11</sup> He is also any person who is directly employed in government, public service or any agency.<sup>12</sup> The 1999 Constitution of the Federal Republic of Nigeria (as amended) gives a detailed definition of who a public officer is. He is a person holding any of the offices specified in Part II of the Schedule to the Constitution but shall not include the chairmanship or membership of ad hoc tribunals, commissions or committees.<sup>13</sup> But for the purpose of code of conduct, the Part II of the Fifth schedule defined the public officers to include the President of the Federation, Vice President of the Federation, the President of the Senate and Deputy President of the Senate, Speaker and Deputy Speaker of the House of Representatives and Speakers and Deputy Speakers of Houses of Assembly of States and all members and Staff of Legislative Houses, the Governors and Deputy Governors of the State etc.<sup>14</sup> The Independent Corrupt Practices and other Related Offences Commission defines Public Officer (official) as:

A person employed or engaged in any capacity in the public service of the Federation, State or Local Government, Public corporations or Private Company wholly or jointly floated by any government or its agency including the subsidiary of any such company whether located within or outside Nigeria and Judicial Officers, serving Magistrates, Area/Customary Courts or Tribunals.<sup>15</sup>

And in the case of *C.B.N v. S.C.S.B.V (No.1)*<sup>16</sup>, Public Officers are equated with public department and includes every officer of the department vested with the performance of public duties. By these definitions, a Public Officer contemplate any person who is under the employment of the either the Federal or State Governments from the President to the lowest person in the cadre of the civil service. Corruption having formed part of life for majority of Nigerians especially our leaders in the public service, all hands must be on deck to check this ugly situation in Nigeria by ensuring that corruption is discouraged in all ramifications. One of the ways of stamping out corruption in the public service of the federation is the removal of immunity of public officers from the constitution and other related laws in Nigeria. Thus, since the leadership of the National Assembly is categorized as public officers, granting them absolute immunity as they are requesting will make them corrupt and spell doom for growing democracy.

<sup>9</sup> Kenneth Okonkwo, 'Immunity for legislators', *Daily Sun Newspapers*, Sunday 8<sup>th</sup> March, 2020, p.48

<sup>10</sup> *Okomu Oil Palm Co. V. Iserhienrhien* (2001) 6 NWLR (pt. 710) p. 660

<sup>11</sup> Ese Malemi, *Administration Law*, (3<sup>rd</sup> ed.), (Princeton Publishing Co. Lagos 2008), p.440

<sup>12</sup> *ibid.* p.440

<sup>13</sup> Interpretation, Fifth Schedule, Part 1, Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>14</sup> Fifth Schedule Part II No. 1-16 of Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>15</sup> Section 2 Independent corrupt practices & other Related Offences commission Act (ICPC), 2000

<sup>16</sup> (2015) 11 NWLR (pt. 1469) p. 135

#### 4. The Endemic Nature of Corruption in Nigeria

Corruption 'indicates impurity or debasement and under the criminal Law it means... gross impropriety'<sup>17</sup>. It is acting dishonesty in the exercise of one's duty being deflected or swayed by some inducement or bribe or some gratifications. It is also described as 'doing something with intent to give advantage inconsistent with official duty and the rights of others; a fiduciary's or official' use of a station or office to procure some benefit either personally or for someone else....<sup>18</sup> In other words, corruption is the dishonest of fraudulent conduct by those in power, involving bribery. It involves illegitimate use of power to one's own benefit or advantage.<sup>19</sup> There is no doubt that despite our many legal frame works to contend or check corruption in Nigeria, like Criminal code Act Cap C38 LFN 2004, Economic and Financial Crimes Act, 2004 etc, corruption has continued to proliferate in high and low places which had brought economic woes and untold hardship in our country. All these laws described corruption as a felony, a serious crime attracting severe punishment, for example, the oldest law of corruption in Nigeria, the Criminal Code in section 98(1)<sup>20</sup> provides that any public official who:

- a. corruptly asks or receives or obtains any property or benefit of any kind for himself or any other person; or
- b. corruptly agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person, on account of-
  - i. anything already done or omitted, or any favour or disfavour already shown to any person, by himself in the discharge of his official duties or in relation to any matter connected with a function, affairs or business of a Government department, public body or other organization or institution in which he is serving as public official, or
  - ii. anything to be afterwards done or omitted, or any favour or disfavour to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter as aforesaid is guilty of the felony of official corruption and is liable to imprisonment for seven years.

In Nigeria today, corruption is endemic and caught across all spheres of our national life. Corruption is a hydra-headed monster lurking to devour the entire nation if we do not rise in unison as a people and condemn it. There is no reason or justification for the legislators to be asking for immunity for their leaders except to hide under it to loot public fund. They should concern themselves with the making of laws that will improve the conditions of those they represent, anything less would amount to legislative misnomer.

#### 5. Immunity of Public Officers and Anti-corrupt Crusade in Nigeria

Having examined some basic concepts, what comes to the fore now is determination of the issue of the immunity of public office holders in Nigeria and the fight against corruption in Nigeria. The Constitution of Nigeria provides for the immunity of some public officers thus:

- a. No civil or criminal proceedings shall be instituted or continued against a person to whom this section applied during his period of office;
- b. A person to whom this section applies shall not be arrested or imprisoned during that period either on pursuance of the process of any court or otherwise; and
- c. No process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for/or issued.<sup>21</sup>

It went further to say that the person whom this section applies 'is the President or Vice President, Governor or Deputy Governor; and that the reference to 'period of office' is the period during which the person holding such office is required to perform the functions of his office'.<sup>22</sup> The implication of this immunity clause is that any person to whom the section applies shall not be arrested or prosecuted or imprisoned either in pursuance of the process of any court. The sole justification for this constitutional provision of immunity is that the heads of state and government should enjoy 'absolute immunity to enable them to perform their official duties without distractions. In other words, such public officers should not be harassed or distracted in the performance of their duties by fear of civil or criminal litigation.'<sup>23</sup>

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<sup>17</sup> Ronald N. Boyce, *Criminal Law* 855 (3<sup>rd</sup> edition, 19982) quoted in *Black's Law Dictionary* *ibid*...

<sup>18</sup> *Ibid*., Bryam A. Garner, *Black's Law Dictionary*, p. 384

<sup>19</sup> Uzochukwu Mike, 'Corruption Nigeria: Review Causes, Effects and solution' published online at <http://soapbxie.com/world-politics/corrupt-in> accessed on 2/8/2017 at 10:45pm

<sup>20</sup> Section 98 (1) of the Criminal Code

<sup>21</sup> Section 308 (3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

<sup>22</sup> Femi Falana 'Official Corruption and Immunity in Nigeria' Published online on

<http://www.thisdaylive.com/index.php/2016/0/19/official-corruption-and-immunity> accessed on 6/7/2017 at 10.10pm

<sup>23</sup> *Ibid*

However, the provision of this immunity clause shall not apply to civil proceedings against the public officer in his or her official capacity or civil or criminal proceedings in which such a person is only a nominal party. But this immunity provisions do not preclude the persons to whom they relate from electoral actions in which they are personally involved. Even cases filed before the assumption of office by public officers covered by immunity are stayed till they leave office. This is the situation in the case of *Kola Tinubu V J.M.B Securities Ltd.*<sup>24</sup> Also the fact that a public officer is protected by immunity does not preclude relevant agencies from investigating allegations of financial impropriety of great magnitude involving fraud etc. Thus in the case of *Gani Fawehinmi v Insector General of police*,<sup>25</sup> the Supreme Court held that although public officers covered by the immunity clause cannot be arrested or prosecuted, they are not excluded from investigation for corruption and other criminal offences. This goes to show that the evidence could also be used by the House of Assembly or the National Assembly as the case may be for impeachment and subsequent prosecution but so long as the person is still in the office covered by immunity, he cannot be arrested or prosecuted. This has been the problem with the fight against corruption among some public officials. In the case of Ayo Fayose whose Bank account was stanchued with N1.2 Billion, was accused of criminally diverting money. Although the EFCC was able to freeze the account, they could not prosecute or arrest him.<sup>26</sup> In the bid to arrest some alleged corrupt Judicial Officers by Security Agents in order to investigate them, Governor Wike of Rivers State prevented the State Security Services (DSS) from arresting one of them because he knew he was covered by immunity and cannot be arrested and prosecuted because by his action, he not only compounded felony but also obstructed justice.

What the Legislators are asking for is akin to immunity that the executive enjoy. The rascality and impunity that the executives exercise, exhibit or display because of the immunity granted to them by the Nigerian Constitution 1999(as amended) is such that if granted to the Legislators, the country might be run aground because the level of corruption would be unprecedented. They would become too arrogant and they might even kill innocent citizens for political reasons and go scot free because they will not be arrested and prosecuted while in office. The absolute privilege already enjoyed by the Legislature and Judicial Officers is enough. Example, under absolute principle, everything published in the due course of parliamentary proceedings is absolutely privileged. Article 9 of the Bill of Rights States; 'that the freedom of speech, and debates or proceedings in parliament ought not to be impeached or questioned in any court or any place out of parliament'. Hence, no member of parliament could be called on to answer for anything which he says in his place nor could anything that he said in parliament be used to support an allegation of malice to rebut the defence of fair comment to statement made outside parliament. This rule applies to Nigeria being a former colony of Britain. With regard to judicial proceedings 'neither party, nor witness, nor counsel, nor jury nor judge, can be put to answer civilly or criminally for words spoken in office'<sup>27</sup>. The rule is not confined to actions of defamation but applies to whatever cause of actions is sought to be derived from what was said or done in judicial proceedings, unless, perhaps, the gist of the action is an abuse of the process of the court arising from some act or statement in the proceeding.<sup>28</sup>The authorities are clear, uniform and conclusive that no action of slander or libel is whether against judges, counsel, witnesses or parties, for words written or spoken in the ordinary course of any proceedings before any court or tribunal recognized by law<sup>29</sup>. This immunity extends to all tribunals exercising functions equivalent to those of an established court of justice and applies whenever there is an authorized inquiry, which though, not before a court of justice is before a tribunal which has similar attributes.<sup>30</sup> This principle of law was effectively applied in Nigeria when judges allowed themselves to be used by politicians when some Governors were impeached between 2003 – 2007,when President Olusegun Obasanjo was in power. Some judicial officers who compromised their judicial functions in the spate of the saga of impeachment of these Governors were sanctioned by National Judicial Council (NJC) which suspended them. In particular, Justice Chuks Okoli the former chief judge of Anambra State was suspended for his role in the removal of former Governor Peter Obi of Anambra State. Justice Bamishile of Ekiti State suffered the same fate. He was suspended over his official misconduct during the impeachment proceedings against Ayo Fayoshe of Ekiti State. Justice Dakwang was also suspended over the way he handled the impeachment of Joshua Dariye of Plateau State<sup>31</sup>. Similarly, Justice Wilson Egbo-Egbo and Justice S. Nnaji were removed over abuse of their offices, following *Ex-parte Orders* they had made. Justice Egbo-Egbo had ordered that former Anambra State Governor, Dr. Chris Ngige be removed from office on grounds that the Governor had duly resigned from office and restrained

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<sup>24</sup> (2001)11 WRN p.21, (2001)16 NWLR (pt. 740) p.670

<sup>25</sup> (2002) 23 WRN p.1

<sup>26</sup> Rotimi Ojomoyele et al, 'Federal High Court Ordered Freezing of Governor Ayodele Fayose's account', *Vanguard Newspaper*, 15<sup>th</sup> December, 2016, p. 5

<sup>27</sup> Per Lord Mansfield C J in *R v Skinner* (1772) Loft p.55 at p.56

<sup>28</sup> *Marrinan v Vibert* (1963)1Q.B p.528

<sup>29</sup> Per Kelly C.B *Dawnkins v Lord Rokeby* (1873) L.R 8Q.B p.255 at 265

<sup>30</sup> Per Lord Esher in *Royal Aquarium Society Ltd v Parkinson* (1892) 1Q. B p.431 at p. 442

<sup>31</sup> [www.NewYorkAppellateLayer.com](http://www.NewYorkAppellateLayer.com), accessed on 9/10/2008

him from parading himself as Governor and to hand over to his erstwhile Deputy, Dr. Okey Ude. Justice S. Nnaji gave a similar order in another case against Dr. Chris Ngige. In recommending Justice Nnaji's removal, National Judicial Council (NJC) said 'the judge's order was contrary to the code of conduct for judicial officers and contravenes his jurisdictional powers.'<sup>32</sup> Because of these measures by NJC, Judges are now cautious when asked to use their Ex-parte jurisdictions in appropriate and deserving cases and have often declined their use. If these institutions that ought to ensure that our democracy is deep rooted are granted absolute immunity, they would become corrupt and dictators in their offices and that would automatically crash our democracy.

Kupundeh<sup>33</sup> and Pavarala<sup>34</sup> conceptualize corruption as a product of the wrongful behavior of the elites. The elites are a social group which enjoys a prestigious status and exerts influence over large sections of the community. Therefore, elites can be categorized into political elites, bureaucratic elites, business elites, judicial elites and media elites. These categories in many societies have the monopoly of control over public institutions and should be responsible for the prevalence of corruption. In a nutshell, therefore, corruption is the abuse of public office for personal gain.<sup>35</sup> One option considered during the elaboration of the United Nations Convention Against Corruption,<sup>36</sup> was not to define corruption *per se* but to identify and describe the specific conducts that are generally classified as corrupt and that constitute criminal misconduct: bribery, favouritism and nepotism, creating or exploiting conflicting interests, and improper political donations, 'padding of budgets and unprocedural amendment of rules and/or laws' (emphasize mine). In China, for example, any public officer found to be corrupt, faces execution and was the perpetrators of corruption in Nigeria under review Chinese nationals, they would probably be executed.<sup>37</sup> In Israel, on 14<sup>th</sup> May, 2014, for desecrating a holy land, a former Israel Prime Minister, Ehud Olmert, was sentenced to six years in prison. The judge also, fined him one million shekels about 298,000 dollars and ordered that 560,000 shekels in his assets be seized. Olmert was found guilty by the Tel-Aviv District Court of accepting a 500,000 shekel bribe from developers of a controversial apartment complex known as HOLY LAND after which planning and zoning laws were changed, and another 60,000 shekels for another project and sentenced accordingly.<sup>38</sup> Nigeria is one of the few countries in the world where those who engage in corrupt practices are praised and venerated. If Ehud Olmert were to be a Nigerian, the people that will be leading to beg on his behalf are religious leaders, Bishops, Cardinals, traditional rulers and educated elites who will tell you why it didn't start from him. That this person is a thief, that person is a thief. He is a member of that party; that is why he will not be touched. How could accepting a mere 500,000 shekels have amounted to corruption?<sup>39</sup> The only option for the survival of Nigeria's nascent democracy is for us to stand up against corruption and allow our corrupt people to be brought to justice no matter his/her status in the society. This is the only solution to fight corruption in Nigeria or else, in the words of President Muhammadu Buhari, 'if we don't kill corruption, corruption will kill Nigeria'.

## 6. Conclusion and Recommendations

There is no doubt that immunity precludes some public officials from arrest, prosecution etc, but there is no doubt that this immunity has become a license for impunity to commit crime and hide under it and so corruption has continued to thrive in Nigeria unabated. Corruption in Nigeria is systematic and endemic, it has permeated all strata of our lives, there are many legislative enactments put in place beginning with our Criminal Code Act/Laws to fight corruption yet it continues to rear its hydra headed head high. It therefore requires commitment, patriotism, and selfless service to the nation. Leaders coming to serve should always be mindful of what they are going to contribute to the nation not what they are going to milk or extract from the government coffers. It requires re-awakening consciousness of what it means to live life of integrity. A new orientation and retreat is needed nationwide to non-scientist the citizenry on the need to eschew corrupt practices. Law has its own role to play if reinforced but a new reorientation is needed in our country. Secondly, the law on immunity needs to be revisited. It is recommended that the immunity clause should be expunged from our Constitution to make all public officials and indeed all to be conscious of the demand placed on them to act honestly and justly. It is indeed a legislative misnomer for the legislators to be asking for immunity for their leaders which if their demand is granted, will encourage corruption in the Legislature. It is a notorious fact that corruption has assumed a threatening dimension

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<sup>32</sup> [http://www.Hrw.Org/reports/2004/Nigeria\\_0904](http://www.Hrw.Org/reports/2004/Nigeria_0904), accessed on 28/5/2009

<sup>33</sup> S J Kupundeh, *Politics and Corruption in Africa: A Case Study of Sierra Leone*, Maryland, University Press of America, 1995, P.3

<sup>34</sup> V Pavarala, 'Interpreting Corruption: Elites Perspectives in India', New Delhi, *Sage Publication*, 1996, p.51

<sup>35</sup> Uchefula U. Chukwumaeze, 'Recovering Proceeds of Crime in Nigeria: the bane of our Democracy', being the Lecture delivered at the Law Week Of Faculty Law, Chukwumeka Odumegwu Ojukwu University, Igbariam Campus, 2015, p.5

<sup>36</sup> *ibid*, p. 4

<sup>37</sup> Lawis Obi, 'Dissolved the National Assembly', *Daily Sun Newspaper*, Thursday 4<sup>th</sup> August, 2016, p.14

<sup>38</sup> Paschal Chizoba Otimkpu, 'Corruption War And Israeli Example', *Daily Sun Newspaper*, Tuesday 9<sup>th</sup> August, 2016, p.14

<sup>39</sup> *ibid*.

in Nigeria all hands must be on deck to check it and one way of doing that is to expunge immunity from the constitution so that any public officer in Nigeria serving or out of public office could face trial on indictment of any misconduct. The Legislators should rather focus on making laws that will improve the condition of the people they represent rather than dissipating their energy asking for immunity that will enable them loot public fund with impunity.