

THE 'WAR' AGAINST CORRUPTION IN NIGERIA: THE LESSON OF SINGAPORE  
AND THE NEGLECTED STRATEGIES\*

**Abstract**

*The war against corruption in Nigeria was institutionalised during colonialism<sup>1</sup>. Unlike Singapore, Nigeria did not take the war serious soon after independence. In the 2000s, anti-corruption laws<sup>2</sup> were made and specialised agencies<sup>3</sup> to enforce those laws established. This work finds that Nigeria lacks a strong political will to fight corruption like Singapore. The socialisation of children/students at all levels of learning in Nigeria against corruption is recommended. Key words: Corruption, EFCC, ICPC, CPIB, Bribery, Extortion.*

**Keywords:** Corruption, War against Corruption, Nigeria, Singapore, Neglected Strategies

**1. Introduction/conceptual framework**

Corruption in the Nigerian public life has gained notoriety at home and abroad<sup>4</sup>. The common good is no longer the primary concern of those entrusted with public offices or positions of trust in the private sector. People have become selective where they work; and within a place of work, which office they occupy not because of service delivery to humanity or the dictates of their fields of study but because of the personal 'gains' that shall 'accrue' to them. The weak anti-corruption legal regime after independence and before the Chief Olusegun Obasanjo regime of 1999 to 2007 provided a fecund ground for corruption to flourish.

**2. The concept of corruption**

Garner et al define corruption as: 'The act of doing something with an intent to give some advantage inconsistent with official duty and the rights of others; a fiduciary's or official's use of a station or office to procure some benefits either personally or for someone else, contrary to the rights of others.'<sup>5</sup> (Emphasis supplied). The use of 'official duty' for 'personal or someone else' benefit to the detriment of others is the centrality of corruption by this definition. There is nothing in this definition that stops the prosecution of someone working in the private sector for corruption since 'official' describe a capacity in the public or private sector. Unfortunately, the Codes of Criminal Conducts in Nigeria failed to define corruption offences well enough to warrant the prosecution of even public servants satisfactorily. For instance, a person that crippled the bank he was chief executive of by loans/advances to his companies without security would have been out of the ambit of corruption by the narrow prescription<sup>6</sup>. Corruption could be defined as any 'gain' derived by a person from anything done or left undone, that is unlawful, immoral or contrary to public policy, at the expense of the economic interest or honour, integrity, security etc of the public, any person or group of persons.

**3. The war against corruption in Nigeria in retrospect**

The Criminal Code was introduced in the defunct British Northern Protectorate of Nigeria in 1904 and later extended to the Southern Protectorate in 1916<sup>7</sup>. Only the police and the office of the Attorney General that were prosecuting in that penal regime that was, in the words of Okonkwo, '...far from clear.'<sup>8</sup> Okonkwo lamented the acquittal of dishonest persons that stood trial for corruption as a result of wrong charges<sup>9</sup>. Such challenges included situations such as in *R v Anyaleme*<sup>10</sup> where the appellate court could not substitute a different conviction except for the one the trial judge could have convicted on the information or charge. The problem of the

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\*By Musa Y SULEIMAN, PhD, Lecturer, General Studies Unit, Kaduna State University, Nigeria. The author has written several articles published in several journals. Contacts: 08029717918/08038431006. Email:- suleimanlawfirm@gmail.com.

<sup>1</sup> The Criminal Code that was introduced in the Northern Protectorate in 1904 and extended to the Southern Protectorate in 1916 and currently applicable to states of Southern Nigeria.

<sup>2</sup> Corrupt Practices and Other Related Offences Commission (ICPC) established by the Corrupt Practices and Other Related Offences Commission Act, Cap. C31, Laws of the Federation of Nigeria (LFN), 2004; and the Economic and Financial Crimes Commission (EFCC) established by the Economic and Financial Crimes Commission (Establishment etc.) Act, Cap. E1, LFN, 2004.

<sup>3</sup> The Independent and Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC).

<sup>4</sup> *AG Ondo v AG Federation* [2002] 10 NSCQR (Part 2) 1036 at 1122 paragraph C-D.

<sup>5</sup> Bryan A. Garner, Tiger Jackson and Jeff Newman, *Black's Law Dictionary*, 8<sup>th</sup> edition, (Dallas: West Publishing Company, 1999) p.371.

<sup>6</sup> *FRN v Bulama* [2010]1 ECLR 137. Cf. the Singapore case of *PP v. Leng Kah Poh* [2014] 4 SLR 1264, where the manager of a company that connived with two other workers of the company to buy goods from their companies for their employer on inflated prices were held to be guilty of corruption offences.

<sup>7</sup> Kharisu S. Chukkol, *Defences to Criminal Liability in Nigerian Law: A Critical Appraisal* (Zaria: ABU Press Ltd., 1985) p.2.

<sup>8</sup> Okonkwo and Naish, *Criminal Law in Nigeria*, 2<sup>nd</sup> edn., (Ibadan: Spectrum Law Publishing, 1980) p.355.

<sup>9</sup> *Ibid.*

<sup>10</sup> [1943] WACA 23.

prosecution was partly due to the ‘difficult wording of the sections concerned.’<sup>11</sup> In *Amaechi v COP*<sup>12</sup>, the appellate court lamented that the ‘law relating to official corruption and kindred offences is not easy...’<sup>13</sup>. The law on corruption was centred on ‘bribery’ and ‘extortion’.<sup>14</sup> Many corrupt practices could not fit into the code’s prescriptions in section 98 to 113 of the Criminal Code leaving perpetrators of such other ‘crimes’ get away with their ‘wrong doings’. No specialised anti-corruption agency was established by the Criminal Code or any other law thereby leaving corruption cases to the police and the offices of the Attorneys General of the Federation and Regions/States.

After independence but before the 2000s, the fight against corruption was as dictated by circumstances in most cases but was not taken as a ‘project’ that was meant to be sustained. Gen. Murtala Muhammed probed the Gen. Yakubu Gowon’s administration in 1975/76 and ordered the return of properties unlawfully acquired by public officers<sup>15</sup>. President Shehu Shagari launched the ‘National Ethical Revolution in 1981’ which did not outlive his administration that ended in December, 1983. Gen. Muhammadu Buhari initiated the ‘War Against Indiscipline’ (WAI) crusade in 1983 which ended with his administration in 1985. Gen. Sani Abacha introduced the Fails Bank Tribunal which ended with his administration too<sup>16</sup>. On the other hand, Singapore had a common corrupt colonial master (Britain) with Nigeria<sup>17</sup>. As at independence, the two former colonies had very weak anti-corruption legal regimes<sup>18</sup> though the colonial master left Singapore with the Corrupt Practices Investigations Bureau (CPIB) and left Nigeria with no special agency to combat corruption. Singapore took the bull by its horn despite ‘inadequate laws, insufficient manpower in the anti-corruption agency...lack of commitment amongst enforcement officers...the entire socio-economic climate made it ripe for corruption to take root, and it took a feat of political will to exterminate the surge of corruption.’<sup>19</sup> Unfortunately, Nigerian nationalists that should have picked up the fight against corruption soon after independence as it was done in Singapore went the way of corrupt practices. For instance, after independence, the Strafford Commission found prominent Nigerian nationalists and politicians with hands in corrupt practices<sup>20</sup>. On the 2<sup>6th</sup> day of February, 1952, the Emir of Gwandu in the defunct Northern Nigerian House of Chiefs<sup>21</sup> lamented the practice of bribery and corruption in the northern public life and called on the defunct Native Authorities<sup>22</sup> to trace and punish offenders with ‘strict impartiality’ and to educate the public against the menace of bribery and corruption<sup>23</sup>.

#### 4. The War against corruption, the Singaporean and Nigerian approaches compared

The two countries had two things in common, a corrupt colonial master and a corrupt society during colonialism and immediately after independence. Driven by ‘a feat of political will to exterminate the scourge of corruption’, Singaporean political leaders took corruption as a problem that must be ‘extinguished’<sup>24</sup>. This was the foundational requirement that Nigeria hadn’t. Instead of this, Nigeria had ‘about ninety-nine per cent’ of its population living in ‘extreme’ poverty while a ‘few millionaires’ were made by ‘using their political connections to divert government (people’s) money into their hands.’<sup>25</sup> Soon after independence, Singaporean authorities identified four foundational foci to combat corruption: ‘effective laws, independent judiciary, effective

<sup>11</sup> Okonkwo and Naish (n 8) p. 356.

<sup>12</sup> [1958] NRNLR 123, see also *Ezebuio v COP* [1958] NRNLR 84.

<sup>13</sup> (n12) p. 126.

<sup>14</sup> See Okonkwo and Naish (n 8) pp.356 and 357.

<sup>15</sup> Jide Oluwajuyitan ‘In defence of Ibori and Niger Delta’ [www.thenationonline.ng/defence-ibori-niger-delta/amp](http://www.thenationonline.ng/defence-ibori-niger-delta/amp) visited 12/07/2019.

<sup>16</sup> Aondofa Aligba ‘A Critical Appraisal of the Fight Against Corruption in Nigeria’ *Ahmadu Bello University Journal of Commercial Law*, Vol. 8 No. 1 (2016 and 2017) pp.106 and 107.

<sup>17</sup> Adebayo A., *Power in Politics* (Ibadan: Spectrum Books Ltd., 1999) p.26 where British law makers were reported to receive bribes from Kings before passing bills; particularly King George III monitored the payment of such bribes and also discovered that some Parliamentarians that collected voted against him necessitating his reference to it as: ‘This trade of politics is a rascally business.’

<sup>18</sup> Nicholas Lim Kah Hwee, ‘Singapore Experience in the Fight Against Corruption’ <https://www.unafei.or.jp> visited 11/7/2019.

<sup>19</sup> (n18).

<sup>20</sup> Olurode and Akinboye, *Democracy, Good Governance and Corruption in Nigeria* (Lagos: Frankarv Publishers, 2005) p. 53.

<sup>21</sup> Note that Regions in Nigeria practised bi-cameral legislative system with the House of Chiefs being the Upper Chambers.

<sup>22</sup> Native Authorities /local governments were the third tier of the Nigerian Federation.

<sup>23</sup> (n22).

<sup>24</sup> Nicholas Lim Kah Hwee (n18).

<sup>25</sup> Adewole Ademoyega, *Why We Struck: The Story of the First Nigerian Coup* (Ibadan: Evans Brothers (Nigeria Publishers) Ltd., 1981) p. 48.

enforcement and responsive public service'<sup>26</sup>. Nigeria never had selfless leaders with a political will like the Singaporean leaders. Instead, the political class that drove the corrupt colonial master away inherited his garment of corruption<sup>27</sup>. Certainly, corruption was identified as a problem by a segment of the Nigerian population, but there was no opportunity to set the agenda to fight it<sup>28</sup>.

Singapore confronted this monster by enacting the 'Prevention of Corruption Act' (PCA) in 1960<sup>29</sup> after its independence in 1959. This Act enlarged the number of corruption offences to include those committed by citizens of Singapore in foreign countries as if they were committed in Singapore<sup>30</sup>. It made complaints of corruption inadmissible in evidence against complainants and made it non-obligatory for a witness to disclose his informant *inter alia* in order to shield the identity of informants<sup>31</sup>. The Act provides for concealed properties of a defendant and goes the further step of providing that if property is in the custody of someone related to the defendant and the relation cannot explain its source, it should be presumed that it belongs to the defendant<sup>32</sup>. The robust provisions of the Act facilitated even the conviction of persons offering packets of cigarettes valued twelve dollars for a favour<sup>33</sup>; offering female marks for sex by a lecturer<sup>34</sup>; a police officer receiving a loan to keep someone posted on the progress of an investigation<sup>35</sup>. An offer to bribe witnesses not to give evidence by a motorist who hit someone was treated as an act of corruption<sup>36</sup>. The above decided cases speak of a broad spectrum legislative prescription of conducts that are regarded as corrupt. There was no act of corruption that was treated as 'trivial' in Singapore. In Nigeria, there are so many conducts that are certainly corrupt but they are simply just ignored, lived with as if they are not crimes. This accounts for the practice of 'receiving appreciation' by an official who is paid salaries; police officers on duty asking motorists 'anything for the boys?' The fight should be taken from the grassroots to mountain tops, from the trivial to the gigantic offences.

The Nigerian nationalists that 'fought' the colonial master out did not send him away with his corruption like the Singaporeans did. Singapore strengthened the CPIB (established in 1952, by the British Colonial government)<sup>37</sup> to deal with corruption cases. Beyond the police and/or the Attorneys General of the federation and regions/states', prosecutions under the penal and criminal codes in Nigeria, there were only occasional government interventions in the fight against corruption<sup>38</sup>. For instance, a probe of the 1966 to 1975 administration General Yakubu Gowon led to the forfeiture of a ship and sixteen houses in choice areas of Port-Harcourt by Navy Commander Alfred D. Spiff, the military governor of Rivers State<sup>39</sup>.

The Government of General Sani Abacha (1993-1998) took the fight against corruption to the banking industry by establishing the Failed Banks Tribunal<sup>40</sup>. The Promulgation of the 'Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree<sup>41</sup> which was designed for the prosecution of bank executives (among others) who granted unsecured loans to themselves and cronies causing the collapse of banks and losses to investors and depositors. The Tribunal heard criminal and civil cases<sup>42</sup>. To restore sanity and rebuild public confidence in the banking industry, the tribunal had the power to recover debts owed failed banks<sup>43</sup>, to 'order the sale of the properties of debtors to recover loans and advances<sup>44</sup>. Persons that were responsible for granting irrecoverable loans/advances were held liable for the sums of money involved.'<sup>45</sup> The 'harsh' posture of Decree

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<sup>26</sup> Nicholas Lim Kah Hwee (n18).

<sup>27</sup> Olurode and Akinboye, *Democracy, Good Governance and Corruption in Nigeria* (Lagos: Frankarv Publishers, 2005)p. 53. See also Adewale Ademoyega (n25).

<sup>28</sup> Adewale Ademoyega (n25) pp. 147 and 148.

<sup>29</sup> Now Cap. 241, Laws of Singapore, 1993.

<sup>30</sup> (n29) Section 37(1).

<sup>31</sup> (n29) Section 36(1).

<sup>32</sup> (n29) Section 24(1) and (2).

<sup>33</sup> *Public Prosecutor v Lam Kim Heng* [2018] SDGC 98.

<sup>34</sup> *Tey Tsun Hang v Public Prosecutor* [2014] 2 SLR 1189.

<sup>35</sup> *Pandiyani T. Rogers v Public Prosecutor* [2001] SLR (R)217.

<sup>36</sup> *Yap v Public Prosecutor* [1998] 3 SLR 656.

<sup>37</sup> Koh Teck Hin, 'Corruption Control in Singapore- CPIB' <https://probitasreport.com> visited 20/03/2020

<sup>38</sup> Aondofa Aligba (n16).

<sup>39</sup> Jide Oluwajuyitan 'In defence of Ibori and Niger Delta' [www.thenationonline.net/defence-ibori-niger-delta/amp](http://www.thenationonline.net/defence-ibori-niger-delta/amp) visited 12/07/2019.

<sup>40</sup> Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree No. 18, 1994 Section 1(1).

<sup>41</sup> No. 18, 1994

<sup>42</sup> (n41) Section 1(3).

<sup>43</sup> (n41) Section 9.

<sup>44</sup> (n41) Section 15.

<sup>45</sup> (41) Section 16 ( 1)(d).

and the political will to give effect to its provisions sent fears into a lot of borrowers who ran in search of funds to pay their debts to such banks. Unlike in Singapore where the fight against corruption has been a sustained exercise, the crusade died with Abacha in 1998 with land mark achievements.

In 1999, Chief Olusegun Obasanjo took the anti-corruption crusade serious and passed into law the Corrupt Practices and other Related Offences Act<sup>46</sup>. By this Act, the Independent Corrupt Practices and other Related Offences Commission (ICPC) was established<sup>47</sup>. The Commission was given the power to investigate and prosecute people suspected of committing any offence under the Act or any other law prohibiting corruption<sup>48</sup>. The Act enlarged the number of offences of corruption beyond the frontiers of the traditional number contained in our penal laws, the Code of Conduct Act etc. It provides for the power of the Chief Justice of Nigeria to appoint a private investigator to investigate a sitting president of allegations of corruption<sup>49</sup>. The Obasanjo's administration again enacted the Economic and Financial Crimes Commission (Establishment) Act<sup>50</sup> which established the Economic and Financial Crimes Commission (EFCC)<sup>51</sup>. This law has not only added to the number of corruption offences but has enlarged them to include other financial matters affecting security<sup>52</sup>, forfeiture of the 'proceeds' of crimes<sup>53</sup>, etc. The common feature of the two anti-graft agencies established under these laws was their power, independent of the police, and the office of the Attorney General to investigate<sup>54</sup>, arrest<sup>55</sup> and prosecute persons accused of financial crimes<sup>56</sup>.

The new regime secured the conviction of a serving Inspector General of Police who was accused of offences bordering on criminal misappropriation etc. of the sum of seventeen billion naira<sup>57</sup>; and a former governor of Edo State<sup>58</sup>. The disappearance of a ship (not a sheep) in the Apapa Wharf in the early 2000s was one incident that bogged the mind. Two senior officers of the Nigerian Navy behind the disappearance of the ship were Admirals Francis Agbite and Samuel Kolawole who were dismissed in 2005<sup>59</sup>. In the year 2018, the EFCC secured 312 convictions of citizens involved in various financial crimes and 189 in 2017<sup>60</sup>. Senators Joshua Dariye and Uzo Kalu from Plateau and Abita States and former governors of their respective states and Jolly Nyame, former governor of Taraba State, are currently serving jailed terms for various financial crimes while they were in office as governors of their states<sup>61</sup>. This regime cannot be denied the credit of marrying the fight at the public sector level (as it was done traditionally) with the private sector of our economic life as Abacha did though to a limited extent. It is on account of this marriage that anti-graft agencies took on a person that granted series of unsecured facilities from a bank above the limits provided in the Bank Rules and without the approval of the Central Bank of Nigeria, thereby causing the collapse of the bank<sup>62</sup>.

##### **5. The setbacks of the fight against corruption in Nigeria not found in Singapore**

Commendable as the fight is in Nigeria today, it still falls short of the standard in Singapore. On the 14<sup>th</sup> December, 1986, Teh Cheang Wan, a Minister in the government of Singapore, committed suicide because he was being investigated for corruption by the CPIB on the instruction of the then Prime Minister, Lee Kuan Yew<sup>63</sup>. There is in Nigeria the 'sacred cow' or 'favoured ones' syndrome. The chairman of the ruling party in Nigeria,

<sup>46</sup>Cap. C31, LFN, 2004.

<sup>47</sup> (n46) Section 3(1).

<sup>48</sup> (n46) Section 6(1).

<sup>49</sup> (n46) Section 52.

<sup>50</sup> Cap. E1, Laws of the Federation of Nigeria (LFN), 2004.

<sup>51</sup> (n51) Section 1(1).

<sup>52</sup> (n51) Section 15(1).

<sup>53</sup> (51) 20(3), 21 and 22.

<sup>54</sup> Cap. C31, Section 6, Cap. E1, Sections 12 and 13(1).

<sup>55</sup> (n54).

<sup>56</sup> (n54).

<sup>57</sup> *FRN v Tafa Balogun* Unreported Suit. No. FHC/ABJ/CR14/2005.

<sup>58</sup> *FRN v Igbinedion* Unreported Suit. No. FHC/EN/CR/17/2008.

<sup>59</sup> Aondofa Aligba (n16) pp.100 and 101.

<sup>60</sup> There were 194 in 2016, [www.efccnigeria.org](http://www.efccnigeria.org) visited 23/04/2019.

<sup>61</sup> Adelani Adepegba 'EFCC records 312 convictions in 2018' [www.punchng.com/efcc-records-312](http://www.punchng.com/efcc-records-312) visited 07/04/2019.

<sup>62</sup> *FRN v Shettima Bulama* (2010) 1 ECLR 137.

<sup>63</sup> [www.straitstimes.com](http://www.straitstimes.com) cf. Franklin Briceno and Christine Armario, 'Peru ex-President commits suicide during corruption probe arrest'. The president shot himself in the head and died. [www.pressdemocrat.com/news/9508645-181/peru-ex-president-alan-garcia-dead](http://www.pressdemocrat.com/news/9508645-181/peru-ex-president-alan-garcia-dead) visited 23/4/2019. the president maintained his innocence in a suicide note but feared the '...corruption investigations as a tool for humiliation, harassment and not to find truths'. Lima, 'Peru's ex-president Garcia denies corruption claims in suicide note' [www.nst.com.my/world/2019/04/481248/perus-ex-president-garcia-denies-corruption-claims-suicide-note](http://www.nst.com.my/world/2019/04/481248/perus-ex-president-garcia-denies-corruption-claims-suicide-note) visited 12/7/2019.

Adam Oshomole, was alleged to have said that becoming a member of the ruling party was synonymous with having your 'sins' 'forgiven'. A party in power spares its own members except when such members have differences with the president of the country. For instance, Joshua Dariye of Plateau State had a hard time with President Obasanjo like Alamieyesiegha of Bayelsa because they were not in good terms though members of the same political party with the president. The same Obasanjo overlooked the 'sins' of a governor that kept back 76% of funds meant for Local Governments within his state and never queried nor investigated his government<sup>64</sup>. It is only the foreign accounts of late head of state, General Sani Abacha that have been subjected to serious scrutiny of all former heads of states, civilian or military. All those that are living are well known to have been corrupt during their times but are simply 'not touchable'.

Wale writes on the reaction of the Buhari led Federal Government of Nigeria, and quoting the presidential spokesman, Garba Shehu, as accusing the People Democratic Party (PDP) of thinking '...that its toga of corruption will dissipate if it succeeded in black painting every other person as corrupt' in an allegation of corruption by the PDP against the government<sup>65</sup>. Edaghesse opined that blaming Buhari for being selective in his prosecution of corrupt politicians is not the right thing to do; but joining hands with him to fight the menace should be the primary concern of Nigerians<sup>66</sup>. When a leader fails, refuses and/or neglects to reach some people or areas, there is no law forbidding a successor from visiting those persons or areas especially that there is no time limit for such prosecutions though his inaction remains condemnable.

There is also the heroic treatment syndrome. When the former governor of Delta State, James Ibori, was released from prison in England where he was handed a thirteen year jail term on charges of corruption involving theft of \$50m from his state, the people of his state, including top government officials, gave him a heroic welcome and celebrated him<sup>67</sup>. After the shameful conduct of the former military governor of Rivers State, Alfred, his people in Brass, Rivers State, gave him a chieftaincy title<sup>68</sup>. In Singapore, where the fight has not only been largely successful but has placed the country on the first seven of the most corruption free countries of the world, senseless and/or baseless sentiments are not invoked by the citizenry against the fight and in favour of any corrupt person.

Another is the 'give and take' / 'compromise' or government interference syndrome. For a 'favour' to the government, a defendant standing trial could be asked by the government in Nigeria to name his price. A clear instance in Nigeria's most recent history is the case of Danjuma Goje. For the past eight years, Goje has stood trial at the instance of the EFCC on allegations of the fraud of twenty-five billion naira when he was governor of Gombe State. The 'EFCC, surprisingly withdrew from the matter for the AGF [Attorney General of the Federation] to take charge, a day after Mr. Goje met with President Muhammadu Buhari and accepted to cede his quest for the Senate Presidency for Ahmed Lawan'<sup>69</sup>, the government's favoured candidate for the position<sup>70</sup>. The AGF moved in and stopped the criminal proceedings of eight years by entering a *nolle prosequi* and Goje was discharged! Courts have acknowledged the AGF as a master unto himself and not subject to even judicial

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<sup>64</sup> FGN, The Report of the Technical committee on the Review of the Structure of local Government Councils in Niger (Vol. 1) (Abuja: National Assembly Press, 2003) p. 40.

<sup>65</sup> Wale Odunsi 'Presidency reacts to corruption allegation against Buhari, APC govt' <https://dailypost.ng/news> visited 12/04/2019.

<sup>66</sup> Sly Edaghesse, 'Buhari's anti-corruption war: Matters arising' [www.guardian.ng/opinion/columnists/buhari's-anti-corruption-war-matters-arising](http://www.guardian.ng/opinion/columnists/buhari's-anti-corruption-war-matters-arising). Cf. Chief Olu Falae, 'Buhari's anti-corruption war getting out of hand-Falae' [www.punchng.com/buhari's-anti-corruption-war-getting-hand-falae](http://www.punchng.com/buhari's-anti-corruption-war-getting-hand-falae) visited 12/04/2019; Ibanga Isine, 'Balarabe Musa to Buhari: Probe your military regime if you're serious about corruption war' [www.premiumtimesng.com/news/top-news/188907-balarabe-musa-to-buhari-probe-your-military-regime-if-you're-serious](http://www.premiumtimesng.com/news/top-news/188907-balarabe-musa-to-buhari-probe-your-military-regime-if-you're-serious) visited 12/04/2019; Ugwuanyi Sylvester, 'Why I won't support Buhari's war against corruption- Wike' [www.dailypost.ng/2016/02/08/y-i-wont-support-buhari's-war-against-corruption-wike](http://www.dailypost.ng/2016/02/08/y-i-wont-support-buhari's-war-against-corruption-wike) visited 12/07/2019.

<sup>67</sup> Jide Oluwajuyitan 'In defence of Ibori and Niger Delta' [www.thenationonlineng.net/defence-ibori-niger-delta/amp](http://www.thenationonlineng.net/defence-ibori-niger-delta/amp) visited 12/04/2019.

<sup>68</sup> Ibid.

<sup>69</sup> Ade Adesomoju, 'AGF took over Goje's case, EFCC didn't withdraw – Prosecutor' <https://punch.com/agf-took-over-case> visited 11/07/2019.

<sup>70</sup> Adejumo Kabir, 'How EFCC, AGF'S strange 'romance' saved Goje after surrendering Senate Presidency bid' [www.premiumtimesng.com](http://www.premiumtimesng.com).

control when it comes to the power to institute, continue and discontinue criminal proceedings<sup>71</sup>, resort to the use of this power in corruption cases should not be heard in any government that is committed to fighting corruption<sup>72</sup>. The AGF, though a ‘master’, cannot move an inch to court to frustrate the trial of corruption cases without the permission of the master’s master, the President. This is a fact that has no habitation in a fog.

There is the ‘combatants’ role conflict syndrome. Flowing mostly directly from the ‘compromise’ syndrome is the role conflict of the agencies responsible for prosecuting defendants standing trial on charges of corruption. Adejumo has reported instances of ‘Past Rivalry between the EFCC and AGF’. In 2018, he posits, a businessman, John Abebe, the younger brother ‘to former first lady, Stella Obasanjo’ stood trial at a Special Offences Court in Ikeja-Lagos. It was a war between the AGF and EFCC as to who should prosecute the defendant. Similarly, in 2016, the two prosecuting authorities were disagreed in the Federal High Court, Lagos, over who to prosecute sixteen persons suspected of a forty-three-billion-naira fraud in a company. There was disagreement too on who between the two would prosecute the defendant in the bribery charges against the Chairman of the Code of Conduct Tribunal, Justice Danladi Umar<sup>73</sup>. The AGF has the unfettered constitutional power to take over or discontinue criminal prosecutions pending before courts, (save Court Martial) from any person or authority<sup>74</sup>. The patriotic zeal to prosecute corrupt persons is the reason for the resistance of the EFCC to any takeover bids of the AGF. This underscores the need for independent bodies to prosecute corruption cases. Unfortunately, the anti-graft agencies in Nigeria are not established by the constitution and lack constitutional independence to prosecute cases. In any case, no such role ‘war’ has been shown to have occurred in the history of the war against corruption in Singapore because the will to prosecute and the political will behind prosecution aside, there are no legal bases for such confrontations<sup>75</sup>.

It is objectionable and sad to know that government is selective in its anti-corruption crusade. This does not, however, render illegal the prosecution of any person(s) to the exclusion of others or even the dropping of charges against anyone through the office of any public prosecutor<sup>76</sup>. It is like confirming as true what the ruling party chairman has been reported to have said, be a member of the ruling party and all your sins shall be forgiven!

## 6. The lesson of Singapore for Nigeria in the Anti-Corruption war

When corruption was endemic in Singapore, the CPIB was reorganised and given considerable powers to curb corruption<sup>77</sup>. The CPIB was not known to have any prosecuting agency subverting its efforts as the office of the AGF did in the Goje case in Nigeria among other cases<sup>78</sup>. The lessons to be learnt from Singapore by Nigeria are mostly not in the area of legislations but enforcement. From the year 2000 to the present day, Nigeria has laws against corruption that, if prudently enforced, can make Nigeria soar higher than Singapore in fighting corruption<sup>79</sup>. The lessons are essentially legislative enforcement oriented as shall be seen below. The Political leaders of Singapore had a very strong political will to fight corruption. According to Hin, the approach of Singapore in its fight against corruption applies across the board, no distinction between ‘petty corruption’ and ‘high level corruption’, no exception granted to anyone and no ‘black areas’ that the law cannot reach<sup>80</sup>. It is this will that led to the prosecution and conviction of Mr. Wee Toon Boon, a serving Minister of state and a

<sup>71</sup> *State v Ilori* (1983) 15 CNLR at p.94 cited by Arzard Habila, Arzard Habila, ‘EXAMINATION OF THE LEGAL CHALLENGES TO COMBATING CORRUPTION IN NIGERIA’, 2016 & 2017 A.B.U. Journal of Commercial Law, Vol. 8, No.1, P.221 at 224.

<sup>72</sup> This power was invoked by the Attorney General to hamstring the trial of Dr. Julius Mankajuola, the permanent secretary and four other directors of the Ministry of Defence in 2002, and also the former Comptroller General of Custom, Hamman Bello Ahmed in 2010. See Arzard Habila (n71) pp.224 and 225.

<sup>73</sup> Adejumo Kabir (n70).

<sup>74</sup> The Constitution of the Federal Republic of Nigeria, 1999, section 174(1)(b) and (c).

<sup>75</sup> Section 35(8) of the 1963 Constitution of Singapore that spells out the functions of the Attorney General does not provide for the power to take over proceedings from any person that has initiated one like Section 174(1)(b) of the Nigerian 1999 Constitution.

<sup>76</sup> *Awolowo v Usman Sarki* [1966] All NLR 117 at 175; *Bradford Corporation v Pickles* [1895] AC 587, 64 LJ Ch 759; 73 LT 353 11 TLR 555.

<sup>77</sup> Kamajuala (a Blog named after Kech Kamajuala), ‘How Singapore fought Corruption, the Lessons for Kenya’, kenyanbyblood.blogspot.co visited 11/7/2019.

<sup>78</sup> This power was sadly exercised to get a defendant off the hook in *FRN v Hamman Bello Ahmed* referred to by Arzard Habila (n71) pp. 224 and 225.

<sup>79</sup> See Aondo Aligba (n16) pp. 105 and 106 for fourteen anti corruption legislations in Nigeria and ten anti-corruption agencies in Nigeria.

<sup>80</sup> *Ibid*.

member of the ruling party, in 1975<sup>81</sup>. In 2013<sup>82</sup>, Edwin Yeo Seow Hionh was 'interdicted' as head of field research and technical support of the Corrupt Practices Investigation Bureau (CPIB) and as an assistant director. He was charged with misappropriating at least one million seven hundred thousand dollars<sup>83</sup>. Although Nigeria can boast of the trial and even the conviction of highly placed persons<sup>84</sup>, this trend has not been consistent and persistent enough to achieve the desired goals of the 'war'. Without a second thought we can point at immediate pass serving ministers (that might have even been retained now), prominent persons especially former governors and heads of state that were corrupt but are members of the class of 'the untouchables'.

Singapore has no recorded case(s) of 'rivalry' in the prosecution of corruption cases and/or instances where prosecutions were stopped for political reasons. Article 35 (8) of the Constitution of Singapore, 1963, gives the Attorney-General the 'power exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence.'<sup>85</sup> The lack of the provision in this constitution enabling the office of the Attorney General to 'take over' criminal proceedings from any person or authority as it is in section 174(1)(b) of the Nigerian Constitution has reduced the chances of struggles between any person that has the right to prosecute any corruption case with the Attorney General of Singapore as it is in Nigeria<sup>86</sup>.

The two legislations that govern the anti corruption war in Singapore are the 'Prevention of Corruption Act' (PCA) and the 'Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act' (CDSA). The Nigerian anti-corruption laws<sup>87</sup> are hardly lacking in the areas covered by the Singaporean laws. Conceding that Nigeria had a late start in putting in place a robust legal frame work for the fight against corruption after independence (unlike Singapore), it must be noted that the latter unlike the former, has maintained 'a conscious and sustained effort to develop a society and culture that eschews corruption.'<sup>88</sup> To this end, Singapore identified four pillars to guide it in the fight against corruption.

- i. 'the foundation of the political will to weed out corruption wherever it may occur...';
- ii. passing 'effective laws',
- iii. having an 'independent judiciary', and
- iv. 'effective enforcement and a responsive public service'.

Armed with a political will to fight corruption, Singapore has not spared the highly placed in the state. The government of Singapore does not interfere in the activities of judges or, at least, has not been shown to interfere in the judicial processes. The abiding commitment of the state of Singapore in enforcing its anti-corruption laws is one of the things that have made Singapore soar high on the list of less corrupt countries in the world. To achieve this, the government of Singapore allocates 'sufficient budget and personnel to the Corrupt Practices Investigation Bureau to ensure it enforces the anti-corruption laws impartially, regardless of the offender's position, status or political affiliation.'<sup>89</sup> This is a lesson that Nigeria should learn to put away the selective enforcement and prosecution of corruption cases.

Unlike Singapore, Nigeria has effective anti-corruption laws but not the other three pillars identified by Singapore. According to Quah, in the resolve to fight corruption, civil servants' salaries in Singapore were increased<sup>90</sup>. This is to ensure a responsible and responsive public service in furtherance of the fourth pillar of the 'war' above identified. A relentless fight from these four fronts would address the symptoms of the sickness, causes as well as immunisation against it. This is an example Nigeria is yet to emulate. Today it is the position

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<sup>81</sup> Ibid

<sup>82</sup> [https://en.wikipedia.org/wiki/Corruption\\_in\\_Singapore](https://en.wikipedia.org/wiki/Corruption_in_Singapore)

<sup>83</sup> In the pending case of *FRN v Kingsley Agbazue* CR/144/18 at the Federal Capital Territory High Court, sitting at Kuje-Abuja, EFCC officer is standing trial for corruption.

<sup>84</sup> *FRN v Tafa Balogun* unreported suit No. FHC/ABJ/CR14/2005, *FRN v Lucky Igbinedion* unreported suit No. FHC/EN/2008, *FRN v Olabode George* unreported suit No. ID/71C/2009, *FRN v. Alamiyeseigha* [2005] 1 QCLR (Part 1)1. The convicts were Inspector General of Police, Edo State governor, a chieftain of the former ruling party (People Democratic Party) and governor of Bayelsa State respectively.

<sup>85</sup> [www.servat.unibe.ch](http://www.servat.unibe.ch) visited on the 12/2019.

<sup>86</sup> See the incident in Goje's case etc. above.

<sup>87</sup> See Aondo Aligba (n16) pp. 105 and 106.

<sup>88</sup> Nicholas Lim Kah Hwee [unafei.or.jp](http://unafei.or.jp) visited 12/7/2019.

<sup>89</sup> Jon S.T. Quah, 'Singapore's Success in Combating Corruption: Four Lessons for China'. <https://www.jstor.org/stable> visited 12/7/2019.

<sup>90</sup> Jon S.T. Quah, 'CORRUPTION IN ASIA WITH SPECIAL REFERENCE TO SINGAPORE: PATTERNS AND CONSEQUENCES', *Asian Journal of Public Administration* p.93 [www.jonstquah.com/documents/corruptionin\\_singaporeAJPA.pdf](http://www.jonstquah.com/documents/corruptionin_singaporeAJPA.pdf) visited 10/04/2019.

that corruption in Singapore is ‘a fact of life rather than a way of life’<sup>91</sup>. In other words, as a matter of fact, corruption exists in Singapore but is not a ‘norm’ the way it is in many other countries including Nigeria. Increasing civil servants’ salaries is a step that would show every citizen that government is not only willing but to fight corruption, but is demonstrating a will to take away the grounds for justifying corruption in the public service. A judge convicting a civil servant for corruption would do so if he is found guilty but not without reservations in his heart if the convict is shown to earn less than he can feed his family and pay rent in a month. Very closely related to increase in salaries of public servants is the vexed issue of wage differentia. If a messenger in the Central Bank of Nigeria (CBN) or the Nigerian National Petroleum Corporation (NNPC) earn more than a graduate in other ministries as it is today in Nigeria much more needs to be done.

### **7. The neglected strategies in the fight against corruption in Nigeria**

The Nigerian State has depended heavily on the use of force<sup>92</sup> in prosecuting cases of corruption. Nigeria works with the ‘deterrent’ theory of punishment in mind. In a smack of chewing the gravel to scare tiger nuts, high profile persons are sometimes paraded before the media in handcuffs, sent to courts and consequently prisons to deter people with similar intentions. It is a fact of the success story of any war that varieties of conventional or legal weapons available should be put to use at the appropriate time and in the appropriate places in the course of the same war. It is for this reason that a multi-strategy approach in the war is projected below. Moral suasion strategy. This is a weapon that has not been considered yet remains a lethal weapon in the war against corruption in Nigeria. If the government would use religious leaders, there are high chances that the aim and objectives of the fight would be better achieved. History shows that at the command of Rev. Jim Jones in 1978, over 900 people took ‘cyanide-laced’ drink and died so that they could ‘go to heaven’<sup>93</sup>. The followership of El Zak Zaky that has protested against his continued detention in Abuja and Kaduna is another instance of ‘submission by followers to their religion leaders that glares at us in our faces. The followership of Yusuf Mohammed and later Abubakar Shekau that operates as Boko Haram today speaks volumes of the influence of religious leaders on their followers’<sup>94</sup>. The anti-graft agencies can co-opt religious leaders into the ‘army’ using religious teachings as a weapon to fight corruption (the catch them young strategy). When EFCC came out with the whistle blower strategy in the fight, there was a price attached to it at the expense of the government or individual whose money might be recovered. There is the cost free ‘catch them young’ strategy with a long gestation period though. A child once told a peer group member that God would not take him in an airplane to heaven because he offended another child. That was the illustration of the need for uprightness taught that child be a Sunday school teacher. Inculcating into children at home, in schools and religious places, the evils of corruption will, in the long run, assure the nation of a generation that will not only fight but hates corruption.

There is the African/third world countries’ alliance strategy. African Nations are ‘united’ to fight corruption. This is expressed in their resolve in the African Union Convention on Preventing and Combating Corruption (AUCPCC)<sup>95</sup>. Interestingly, the United Nations Organisation’s General Assembly, by its resolution number 58/4 of 31st October, 2003, adopted the resolution establishing United Nations Convention Against Corruption (UNCAC). The UNCA provides for ‘prevention, investigation and the prosecution’ of the offenders or violators of its provisions against corruption<sup>96</sup>. These two conventions are strong grounds that Nigeria can align with other third world nations to form a lobby group at the United Nation’s level in pursuit of the implementation of the provisions of the Convention. At the African front, the domestication and implementation of AUCPCC by member states of the African Union should be encouraged to make the efforts to steal by corrupt leaders partially fruitless since their stolen money cannot be hidden in African countries<sup>97</sup>.

<sup>91</sup> Jon S.T. Hon, ‘CORRUPTION IN ASIA WITH SPECIAL REFERENCE TO SINGAPORE: PATTERNS AND CONSEQUENCES’, Asian Journal of Public Administration, p. 80. www.jonstqua.com visited 12/7/2019.

<sup>92</sup> Legal use of state security and judicial apparatuses.

<sup>93</sup> Dr. Melvin Johnson ‘A Case Study of How False Christianity and politics Destroyed Many Lives’ m.blogs.christianpost.com/thinkingoutloud/background-checks-on-pelosi-and-feinstein-15603/ visited 06/04/2019.

<sup>94</sup> In *Geron Ali v Emperor* [1914] AIR (Cal.)129, an Indian who was told to bring the head of a human being and make heaven beheaded two people including his child and announced to his religious instructor that he asked for one head but he had brought two! In *Ashiruddin v King* (1949) AIR(Cal.)182, a man kill his son on the instruction of his religion instructor.

<sup>95</sup> Adopted by the second ordinary session of the Assembly of the Union Maputo, 11/7/2003, has been ratified by 38 countries (Nigeria inclusive) and the Convention came into force on the 5<sup>th</sup> August, 2006. By Article 2, corruption is to be detected and punished, by Article 16, corruption proceeds are to be searched and seized among member nations.

<sup>96</sup> (n95), Chapter 4, Article 43-49.

<sup>97</sup> Articles 53, 54, 55 and 57 UNCA.

There is no pardon strategy. Persons convicted of offences involving dishonesty, among others, are barred from contesting elections for a period of ten years from the date of conviction<sup>98</sup>. The war against corruption has found one of its setbacks in pardon granted 'certified' thieves to enable them contest elections or hold public offices. These prerogative powers of the President and Governor are certainly legal<sup>99</sup> and the motive behind their invocation is of no legal moment when the question of the validity of their use arises<sup>100</sup>. The wisdom in their use becomes a matter of concern in an era that corruption is sought to be stamped out of Nigeria. For instance, Alamiyesiegha, who was indicted of stealing one million, one thousand nine hundred and thirteen USD<sup>101</sup>, and later convicted was granted pardon; <sup>102</sup> Bulus, a convict of corruption cases, received pardon from a governor that needed his services during campaigns for re-election<sup>103</sup>. The reprieve granted these persons were politically motivated. The wisdom of the legislator in barring such persons for ten years is certainly not short of allowing them during the time of the denial to be remorseful and reflect soberly on their wrongs. Very unfortunately, the weapon of pardon today does not only displace that good intention of the lawmaker but serves as a licence to politicians to go and commit more sins because there is flowing a fountain of 'grace' that would cleanse them of their sins. This practice has earned Nigeria criticisms abroad.<sup>104</sup> There can be imposition of long jail terms without option of fine. The defendant in *Fani Kayode v FRN*<sup>105</sup> was standing trial on a 47 count of corruption charges but was handed a ministerial appointment by President Goodluck Jonathan. Today he stands as a defendant in the criminal misappropriation of money from the two billion United States dollars meant for the procurement of arms but was unlawfully converted into use for the 'success' of President Goodluck in the 2015 general elections!

## **8. Conclusion and Recommendations**

The war against corruption took its best legal form in the history of Nigeria in the 2000s with the enactment of the anti-graft laws<sup>106</sup>. We are living witnesses that the Nigerian anti-corruption law enforcement regime is a respecter of persons<sup>107</sup> and has party affiliation<sup>108</sup>. It bows to political pressure<sup>109</sup> and does not swing into action when corruption is alleged to have taken place in 'high places'<sup>110</sup>. It was not too late to start the fight; it can never be too late to make the necessary changes to make it effective like in Singapore<sup>111</sup>. The fire of the 'war' should rage unabated. The victims of the war today are the necessary sacrificial items for a corruption free Nigeria. The strategies that have been neglected above have to be taken up especially the 'moral suasion' and the 'catch them young' strategies. It is better that a high cost of doing so be paid today than to pay the higher cost of not doing so by loss of respect and honor as a nation, loss of foreign investments, security, etc. in Nigeria. The signing of bilateral agreements by Nigeria with the United Arab Emirate (UAE) in 2017 to enhance repatriation of stolen wealth among other things between the two countries<sup>112</sup> is a commendable step that should be encouraged with as many nations as possible. Nigeria should domesticate the AUCPCC and mobilise other member states of the

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<sup>98</sup> Sections 66 (1) (d), 107(1) (d), 137(1) (e) and 182 (1)(e) and (i) of the 1999 Constitution for candidates of the National Assembly, State Assemblies, Gubernatorial and Presidential elections respectively.

<sup>99</sup> Sections 175 and 212 of the CFRN.

<sup>100</sup> *Awolowo v Usman Sarki* (1966) All NLR 117 at 175; *Bradford Corporation v Pickles* (1895) AC 587, 64 LJ Ch 759; 73 LT 353 11 TLR 555.

<sup>101</sup> Jide Oluwajuyitan 'In defence of Ibori and Niger Delta' [www.thenationonline.net/defence-ibori-niger-delta/amp](http://www.thenationonline.net/defence-ibori-niger-delta/amp) visited 12/04/2019

<sup>102</sup> Habila S. Arzard (n71) p.228.

<sup>103</sup> (n102).

<sup>104</sup> Sam Roberts 'Diepreye Alamiyesiegha, Nigerian Notorious for Corruption, Dies at 62' *The New York Times* [www.nytimes.com,2015/10/15/world/diepreye-alamieyeseigha-nigerian-ex-governor-dies-at-62.html](http://www.nytimes.com,2015/10/15/world/diepreye-alamieyeseigha-nigerian-ex-governor-dies-at-62.html) visited 08/04/2019.

<sup>105</sup> (2010) All FWLR (Part 534) 181.

<sup>106</sup> The ICPC Act, Cap. C31, Laws of the Federation of Nigeria, 2004 and the EFCC Act, Cap. E1. Laws of the Federation of Nigeria, 2010.

<sup>107</sup> Late Gen. Sani Abacha is the only head of state accused of corruption has had his administration probed.

<sup>108</sup> Several members of the Cabinet members of President Buhari and members of the ruling party, All Progressives Congress (APC) are known to be corrupt when they were governors of their states on the platform of the People Democratic Party (PDP) are now 'saints' and cannot even be investigated.

<sup>109</sup> The account of Danjuma Goje who gave up his Senate Presidential ambition to have all charges of corruption involving over twenty billion naira dropped is a good example.

<sup>110</sup> See Aondofa Aligba (n16) p.89 at 91, in 2016, bags of money from the then President of Nigeria, Mr. Olusegun Obasanjo were displayed on the floor of the House of Representatives at the National Assembly as bribe to members to secure their 'yes votes' to the constitutional amendment that would have allowed him a third term in office.

<sup>111</sup> Jon S.T. Quah, 'Singapore's Success in Combating Corruption: Four Lessons for China'. <https://www.jstor.org/stable> visited 12/7/2019.

<sup>112</sup> Emmanuel Okogba, 'Buhari Signs 9 agreements with UAE to strengthen FG's anti-corruption campaign' [www.vanguardngr.com,2017/08/buhari-signs-9-agreements-uae-strengthen-fgs-anti-corruption-campaign/](http://www.vanguardngr.com,2017/08/buhari-signs-9-agreements-uae-strengthen-fgs-anti-corruption-campaign/) visited 15/04/2019.

African Union to do same and implement the law. Nigeria should also mobilise African countries and other third world countries worst hit by the corrupt activities of their citizens to push for the implementation of UNCAC at the United Nations level. The 1999 Constitution of Nigeria be amended to establish EFCC and the ICPC and make their power to investigate crimes, initiate criminal proceedings and prosecute same not subject to the powers of the AGF under section 174(1)(b) of the Constitution. That the prosecution of persons for financial crimes be done irrespective of the sum of money, kind of corrupt benefit and/or the magnitude of the benefit involved. All authors of petitions to anti-graft agencies must be told not later than six months from the date of the submission of such petitions in writing why the prosecution of the persons complained against cannot be carried on.