

CORRUPTION AND GOOD GOVERNANCE CHALLENGE IN NIGERIA: WHAT ARE WE NOT DOING RIGHT? *

Abstract

Nigeria, like many countries of the world, is bedeviled by the challenge of corruption and good governance and it appears that Nigeria and indeed African countries are the most battered of these two concepts. While corruption tears down a nation, good governance builds and can serve as a check on corruption. Unfortunately, good governance continues to elude Nigeria from the military era to over twenty years of civil rule. This has encouraged the lack of development the country is facing since its independence in 1960, even in the face of its rich natural and human resources. The hazards posed by corruption and poor governance have distorted the balance in all the sectors. This has made successive governments adopt various strategies to fight the menace of corruption in the past decades. However, despite all measures, which include good legal and institutional frameworks, the war against corruption in Nigeria continues to be a mirage and quite unrealistic. This raises the question of what are we not doing right in the fight against corruption in Nigeria? To answer this question, this research is divided into three broad Parts. Part A gives a general idea of the concepts of corruption and good governance; Part B tries to review some of our practices in the fight against corruption from the military era till date. And Part C identifies certain failures in the ways we are fighting corruption in Nigeria. Based on these, certain recommendations are formulated, which include a re-orientation on how Nigerians see corruption.

Keywords: Corruption, Good Governance, Challenges, Nigeria

1. Introduction

Corruption is almost as old as society itself and the most complex issue in human civilization. Political corruption is not peculiar to developing nations alone, but it abounds in practically every part of the globe in this modern era.¹ Already some ancient philosophers like Aristotle and Plato, talked on the traditional idea of corruption as a common virus of the body politics. Plato was concerned that governments rather than being guided by law, were doling out the interest of the sovereigns. This universal understanding of corruption basically defines the term as a fundamental stain, which destroys the political order, be it aristocracy, monarchy, or policy. Therefore, the definition of corruption is devoid of any role within a political order.² This archetypal notion of corruption persists and is centre stage to politics of our times.³ Some other scholars opined that corruption was a process by which the qualities of the citizenry are destabilized and finally destroyed.⁴ Corruption is even more threatening as it weakens the morale of even the good citizens, unless they are re-inspired by good leadership. And once virtue has been compromised, only a brave leader could by way of reconstructing the political order, infuse good quality into the whole citizenry again. Corruption not only perverts a good political order into an evil one but is capable of turning a sovereign into tyranny.⁵ Rousseau viewed corruption as a necessary consequence of the struggle for power.⁶ He went on to profess that it is not man's corruption that devastates the political system, rather, it is the political system that corrupts and devastates man.⁷ Against this backdrop, this research will be divided into three parts. Part A will look at the concept of corruption and that of good governance, natural history, origins and features of corruption, different categories and aspects of corruption in Nigeria, as well as challenges that corruption poses to good governance in Nigeria. Part B will review the various anti-corruption wars that took place in the country and Part C will identify what we have not been doing well to enable us get the desired results. From these fall outs, recommendations will be made for greater success against corruption in Nigeria.

2. Meaning of Corruption

There may not be one ultimate definition of the term 'corruption', but certain scholars have variously attempted to give a clear picture of what it is. For instance, *Nachmias* and *Nachmias*,⁸ gave the view that any definition of corruption must capture a number of opinions and must contain a set of *modus operandi* it seeks to advance. *Friedrich* defines corruption as a type of behaviour, which digresses from the prevailing or expected standard, especially among the political milieu.⁹ In this way, corruption is portrayed as a complete breakdown of law as well as standards of morality and good behaviour. In this vein, it is seen as attempts to secure affluence or power through unlawful earnings for personal gains at the expense of the masses; or the abuse of public authority for private benefits. It is a misbehaviour, which digresses from the official responsibility of a public position, for personal enrichments with close family members.¹⁰ To this end, *Osoba* enjoins that corruption is an egocentric behaviour, which confers improper gains contrary to legal and moral standards and which

*By **Ibibia Lucky WORIKA, LLB (Lagos), BL, LLM (Lagos), PhD (Dundee)**, Professor and Dean of Law, Faculty of Law, University of Port Harcourt, Nigeria. E-mail : ibibia.worika@uniport.edu.ng.

***Glory Omonigho OZURU, BA (Hons.), LLB (Hons.) (RSU), BL, LLM, PhD Candidate (NAU, Awka)**, Lecturer, Faculty of Law, University of Port Harcourt, Nigeria. E-mail: glory.law42@gmail.com/ glory.ozuru@uniport.edu.ng.

¹ Frunzik, T.Y. *Political Analysis: Third world nations' Perspectives*. S.A. 2000, p.3-4.

² Ganiyu Rasaq Omokeji and Taiwo, Felix Olalekan. Corruption and Good Governance in Nigeria, *International Journal of Development Research*, vol. 4, Issue, 9, 2014, p. 1943.

³ Frunzik, note 1, p. 4-5.

⁴ Heieen Frank, *Government machineries and Public Administration*, 2nd Edition, Utara 1993.

⁵ Frunzik, note 3, p. 4.

⁶ Jean Rousseau, *Stanford Encyclopaedia of Philosophy*, in C. Bertram. 2010, plato.stanford.edu, last accessed 21/05/2020.

⁷ *Ibid.*

⁸ Ganiyu, note 2, p. 1943.

⁹ Carl Friedrich, Corruption Concepts in Historical Perspective, in Arnold J. Heidenheimer, Michael Johnson and Victor T. Levine, eds., *Political Corruption*, in: A Handbook, 1989, p. 16. Also, Friedrich, *The Pathology of Politics: Violence, Betrayal, Corruption, Secrecy and Propaganda*, 1972, p. 127.

¹⁰ Ganiyu, note 2, p. 1944.

weakens the power to advance the living standards of the people.¹¹ In this light, the Oxford Dictionary,¹² describes corruption as an operation of deceit particularly through bribery, or a wicked or immoral act. Corruption is also the giving of something to somebody with authority in order to influence him to favour the giver's expectations. It is the giving and receiving of a reward, in order to influence or precipitate an action.¹³ It is the abuse of trust by public officers for the enrichment of themselves, their close family members or other personal cliques, thereby violating some laid down rules. Notwithstanding, the African Union (AU) in its definition of corruption, affirms to the effect that corruption is more or less an act of requesting or accepting either directly or indirectly, of articles or monetary rewards, in the form of gifts, promises, monetary favours, etc. in exchange for an act or omission, by a public officer, in the performance of a public function.¹⁴ The United Nations (UN), in its Convention against Corruption (UNCAC),¹⁵ defines corruption as "the abuse of entrusted power for private gain." At the local scene, there is no specific definition of corruption, however, the Nigerian Criminal Code attempted to define official corruption as any act of asking, receiving or obtaining any benefit of any kind by a public officer for a personal gain,¹⁶ while the Constitution merely provides that the state shall abolish all corrupt practices and abuse of power,¹⁷ which is only possible through good governance.

3. Meaning of Good Governance

Politically, good governance may be relative because different persons may have different ideals of the best forms of good governance. But the fact remains that good governance is absolutely crucial for economic and social growth.¹⁸ Primarily, good or bad governance is an ethical or moral issue. Whatever the case, good governance must be assessed in line with particular norms and laid down objectives. The term 'good governance' is a comparatively innovative term, which is frequently exploited in the description of the aspirations and objectives of a country's political growth.¹⁹ Though, the theories of good governance are not recent, they have been from ancient times, both in the biblical era,²⁰ and traditional times.²¹ Good governance in this modern era is no doubt, anti-corruption, whereby, the leaders and their agents are responsible, efficient, resourceful, transparent, unbiased, consensus-oriented, approachable and participatory.²² All these are the foremost attributes of good governance as highlighted by the United Nations (UN).²³ In determining the success of governance, the analysis of the lowly and oppressed masses, which include the poor, women, children, disabled and youths, must be considered by the authorities as they are most adversely affected by bad governance.²⁴ For a government to be considered as good in both theory and practice, the masses must be empowered to partake in decision-making. The rights of the citizens must be respected. These include their right to information and justice.²⁵ Good governance entails a sustainable Information and Communication Technology, like E-governance, Internet and an independent Media, all of which are feasible means of addressing developmental challenges since the people are easily empowered through such means of information.

The 1999 Constitution of Nigeria offers the benchmark for assessing good governance. It provides to the effect that Nigeria shall be a state footed on democratic principles as well as on social justice.²⁶ It went on to state that the country shall, in line with the supreme objectives of the Constitution control the resources of the country and promote general prosperity and a self-reliant economy.²⁷ It stated further that the state shall control the general economy in a way to protect the utmost welfare, liberty and contentment of the entire citizenry centred on equality and social justice of all the states of the federation. It states that the state shall protect the economic rights of its citizens as they engage in any economic activity outside the main sectors of the financial system. It also enjoins the state to direct its economic policies towards promoting a

¹¹ Osoba, Segun. *Corruption in Nigeria: Historical Perspectives in Review of African Political Economy*. 1996, 23(69), p. 371.

¹² *Oxford Dictionary of Current English*. Books.google.com, 4th edition. 2006, <https://encrypted-tbn2.gstatic.com> accessed 12/05/2020.

¹³ Ganiyu, note 8, p. 1945.

¹⁴ Article 4, African Union Convention on Preventing and Combating Corruption, adopted 2003

¹⁵ Adopted by the UN General Assembly in October 2003 and entered into force in December 2005. This is the only legally binding international anti-corruption multilateral treaty and Nigeria is one of its state parties.

¹⁶ Section 98, Criminal Code, Cap C38, Laws of the Federation, 2004.

¹⁷ Section 15 (5), Constitution of the Federal Republic of Nigeria, 1999.

¹⁸ Oburota, A (2003). 'Governance as a Source of Social Violence in Africa' in Oguejiofor Obi (Ed.) *Philosophy, Democracy and Responsible Governance in Africa*, 2003, p. 388.

¹⁹ Ganiyu, note 8, p. 1944.

²⁰ Even in the Bible times, there were good and bad governors and kings. Examples of good kings were King Abijah, (2 Chronicles 13: 21); King Jehoshaphat (2 Chronicles 18: 1); King Hezekiah (2 Chronicles 32: 26); King Josiah (2 Chronicles 34:2); and King Jotham (2 Chronicles 27:2). All of these were adjudged good Kings or leaders according to the standard of their times, which was mainly to fear God and rule in righteousness. The bad Leaders were King Ahab (1 Kings 16: 29-34); Prophet Eli (1 Samuel 8); Abijah and Asa (2 Chronicles 14: 1-3); etc. They were also assessed according to governance standard of their time, as they were seen to forget God and live an unholy life, cruel and high handed to the people and oppressed the poor and needy.

²¹ In the traditional African setting, for instance, there were bad and good leadership. A good example was Oba Ewuare of the Ancient Benin Kingdom, who was the first of the five great warrior kings the Benin people of the Mid-Western Nigeria. His son Oba Ozolua succeeded him and was remembered for winning over 200 wars. He was succeeded by Oba Esigie, who expanded the kingdom eastwards to form an empire and won land from the Ife kingdom of the Yorubas. All these were standards of rating a leader as 'good' during this era. The worst monarch in history was Leopold II, who was the king of Belgium from 1865-1909. He ruled with much cruelty according to the standard of that time.

²² Ganiyu, note 8, p. 1943.

²³ The World Leaders at the 2005 World Summit concluded on the note that good governance is vital to economic growth, and that the eradication of poverty and hunger, and the achievement of the sustainable development goals depends it.

²⁴ Ganiyu, note 19, p. 1943.

²⁵ In this regard, the recent ban on twitter in Nigeria could be seen as a sign of bad governance as it restricts the freedom of expression of the people.

²⁶ Section 14(1) of the 1999 Constitution of the Federal Republic of Nigeria.

²⁷ Section 16(1) a, b, c and d.

balanced economy.²⁸ And that the nations resources be harnessed and allocated in the most excellent way possible for the common good of all; and that the economic system should not be operated in a way that allows wealth to be concentrated on a few individuals or groups. It provides for suitable shelter, adequate food, adequate pension and care for old age, reasonable standard of living, employment, welfare for the poor and disabled, and sick benefits for all its citizens.²⁹ All these objectives of the constitution have not yet been fulfilled in practice to a considerable extent due to corruption and resultant bad governance.

4. Nature and Features of Corruption

The nature of corruption can be seen in many forms and can be grouped into three, as Political/grand corruption, Electoral corruption, and Bureaucratic corruption.³⁰ *Political or grand corruption* is corruption at the top level of political power. It is seen among the political class and decision makers, who make and execute laws for the people. They tend to tailor policies and legislations to their own advantage. *Electoral corruption* is seen through buying of votes, promises of political office, intimidation, coercion, promises of special goodwill, as well as, interfering with the freedom of election. Elections in Nigeria are characterized by rigging, killings of political opponents, voters, collation officers and law enforcement officials, massive rigging where losers become winners over night, and various other forms of malpractices.³¹ Legislative votes are sold out, judicial and administrative decisions are perverted and sold.³² The third is the *Bureaucratic/petty corruption*, which take place in public offices. This type of corruption is branded the street or low-level corruption. This is the type of corruption which the masses come across on daily bases in public offices, such as in schools, hospitals, the police, licensing offices, immigrations, etc. Of a truth, no office is free of corruption in Nigeria as many civil servants value the extra income, they make from corruption than their salaries. Bureaucratic/petty corruption is best described as a corruption of need. The masses feel cheated by their leaders. They face the hunger and backwardness and so may see their engaging in petty corruptions, as a way of self-help or a kind of *if you cannot swim, you drown* situation. Odekunle, in observing the nature of corruption, went on to characterize corruption into various types, such as monetary corruption and bureaucratic corruption.³³ According to him, monetary corruption is a type of corruption involving a successful transfer of money in exchange for service. This type of corruption circumvents the lawful process laid down to obtain that service.³⁴ Odekunle went on to explain that the bureaucratic corruption is a type of corruption where the medium of exchange is a transfer of position of an office or power in exchange for a supportive loyalty, and which circumvent the lawful process of acquiring such position.³⁵ In this case, there is a collective understanding or goal in the transfer of office or power.³⁶

Leiken, in his analysis identified many aspects in which corruption can thrive. He said that corruption can appear as bribery, extortion, misuse of public funds and property, embezzlement, influencing peddling, patronage, nepotism and shared experience.³⁷ Bribery involves payment in cash or kind in a corrupt rapport. Bribery seems to be the most popular of all the forms of corruption. It involves the monetary inducement of a government official by an external party to secure a desired deed. As Robert rightly said, such buying of contracts are nothing but 'kickbacks'.³⁸ Bribery controls the distribution of monetary benefits in subsidies, insurance, unemployment, pensions, etc.³⁹ Through bribery, the sum of taxes payable to government by private individuals are reduced or unaccounted for. In the case of extortion, it involves the abuse of power in a way to protect responses through the payment in cash or kind. It is the extraction by force, torture, illegal use of official power to overwhelm or influence a weaker party.⁴⁰ Another form of corruption involves the *misuse or abuse of public funds and property* by government officials. According to Lesile, privatization of government assets by project executives and other government officials in economic transition, is nothing but an extreme form of corruption.⁴¹ Most government property in Nigeria have been privatized.⁴² They are either sold out and the money shared or they are bought over by the same government officials who sold them out.⁴³ Privatization as seen in the Nigerian experience is a mere employ of government to create prospects for government officials.⁴⁴ *Embezzlement* on the other hand, is a combination of both bribery and stealing from government treasuries. It is a theft of government fiscal reserves. *Patronage* is the transfer of state positions to one's political supporters. This is also a common practice among Nigerian political parties. On the assumption of office, they

²⁸ Section 16(2).

²⁹ Unfortunately, these classical sections of the Constitution fall under Part II of the 1999 Constitution which was made non-justiciable by section 6(6) (c) of the said Constitution. Thus, no action can lie against the government for not providing these rights which are the much needed for rating any government as good.

³⁰ Amendsen Inge, *Corruption Definition and Concept*; Report commissioned in Norwegian Agency for Development Co-operation (NORAD), January 2000 quoted in Victor, E. 2005 Corruption in Nigeria. A New Paradigm for Effective Control, 2000, p. 27.

³¹ 'Electoral Fraud in Nigeria: A Philosophical Evaluation of the Framework of Electoral Violence...' <https://www.researchgate.net, accessed 29/06/2021>.

³² 'Rigging Through the Courts: The Judiciary and Electoral Fraud in Nigeria,' <https://www.researchgate.net, accessed 29/06/2021>.

³³ Odekunle Femi. *Corruption and Challenges in African Development: A Conceptual Approach*, 1991, p. 431.

³⁴ Deflem Matheieu. *Corruption, Law and Justice: A Conceptual Clarification*, *Journal of Criminal Justice*, 1995.

³⁵ Odekunle, note 24, p. 431.

³⁶ Hbermas B.A., *Corruption and Politics: Africa's Perspective*, *A Journal of Political Revolution*. Refton. (JOPRR), 1987 p. 4-5.

³⁷ Leiken, P.R. *Nature, Scope and Challenges of Politics*, 3rd Edition.

³⁸ Robert, T.H. *Governance, Poverty and corruption: An Expository Approach*. Vol. 3, 1997, p. 432.

³⁹ World Bank Report, (2011).

⁴⁰ Ganiyu, note 21, p. 1947.

⁴¹ Lesile, Z.U, *Essentials of Good Governance*, Revised Edition. Ottawa, 1999.

⁴² These include the Water Board, Electricity, etc. There are calls to privatize the Nigerian National Petroleum Corporation (NNPC). Yet in all of these moves nothing has changed in the Nigerian economy.

⁴³ Sahara Reporters, 35 Nigerian Governors, 15 Ministers, Others Purchase Dubai Properties with Suspected Public Funds, saharareporters.com, accessed on 15/05.2020.

⁴⁴ Ibid.

'remember' their political supporters who in cash or kind assisted them to assume the seat. His re-election depends on how much they gained from his first political reign. *Nepotism* is the award of public agencies on the basis of family ties. In this particular case, the benefactor may not quite be familiar with the beneficiary, but both may come from same ethnic group and perhaps speak the same language or have any other common interest. All these instances of corruption abound in Nigeria. There is classism, tribalism, nepotism and ethnicity. There is massive looting and embezzlement. The Nigerian politicians, elites and leaders, trade in dishonesty and monetary exploitations in the discharge of their duties.⁴⁵ They are susceptible to bribery. They use position of trust for private gains. They daunt moral standards, promote moral perversions and constitute channels of corruption. They project corruption with pride and impunity in the society.⁴⁶ The masses even celebrate them and despite all their loots, some of them are paid pension for life and other entitlements after their terms of service.⁴⁷ Politics in Nigeria is not a call to serve but a means of wriggling free from poverty forever. To be fair, the history of corruption in Nigeria could be traced to colonialism, the military expanded it and the politicians celebrate it.⁴⁸ The painful part of it all is that the loots of these politicians⁴⁹ are only fit to be invested in Swiss⁵⁰ and British⁵¹ banks abroad. This is why Nigeria was rated 144 out of 180 countries for corruption.⁵² Some of the distinguishing features of countries with high level of corruption are; greed, high levels of political and market monopoly, weak public involvement, low democracy, lack of political transparency, high level of bureaucracy, low efficiency in the administrative structure, stumpy press freedom, little economic freedom, etc.⁵³ Transparency International (TI) observed that oil wealth breeds corruption.⁵⁴ Perhaps, this is the case of Nigeria, a country once noted for her agrarian economy. It was particularly famous for its cash crops such as cocoa, oil palm, timber, rubber, etc.⁵⁵ The groundnut pyramids in the North,⁵⁶ cocoa in the West⁵⁷ and oil palm in the East⁵⁸ still made history till today. As *Peter Eigen* rightly pointed out, politicians, banks, oil companies and churches make up remarkable institutions of corruption in Nigeria presently.⁵⁹

In their quest for survival, coupled with frustrations and the feeling of being cheated by their leaders, poor Nigerians are corrupted. The masses have no basic amenities, no infrastructure, they feel the crunch of inflation with the purchasing power of the naira so weak. Many Nigerians get on with corrupt practises in their various locations in order to survive. The police, army, customs, anti-corruption agencies, etc. are all out scouting for additional means of coping with the harsh economy.⁶⁰ It is a common sight to see the police, military men, customs officers, drug and anti-corruption agencies, road safety corps, civil defence groups, etc., all extorting money from motorists on the highways. Corruption has and is still trickling down to the youths and younger generation. They met the mess of the country and may never imagine a Nigeria without corruption. They meet corruption in the school, at home, mosques and churches. This becomes a norm for them. So, they find themselves bribing their teachers and lecturers. It becomes normal to seek riches dubiously so early in life. No wonder the high number of 'yahoo' boys, money ritualists, kidnappers, etc., all seeking to get rich quick. The youths are bribed to be political thugs to politicians who after winning elections will push them away into further crimes.

5. Causes and Effects of Corruption in Nigeria

Some scholars have categorised the causes of corruption into three, thus: Psychological, cultural and system related.⁶¹ The *psychological factors* explain the inner reasoning of a person. Some people are naturally wicked, selfish and greedy. They tend to have criminal intents, including corruption, even in the best of systems.⁶² Such peer pressure could influence even a person with very honest intentions. A situation where those who engage in corrupt practices are living better and happier life, will in a matter of time lure other individuals to also join them. The *cultural factor* could be seen especially, from how the people regard and respect the rule of law.⁶³ An average Nigerian does not respect the rule of law. Lastly, the *system related factors* are as a result of instantaneous and numerous transitions in the economic, ideological, legal and social changes.⁶⁴ There has been recurrent and drastic changes in Nigeria economic, political and social terrain since independence. Some of the laws are vague and conflicting. Also, there is the cartel power of executives; dysfunctional democracy; lack of transparency of government; weak rule of law; imperfect electoral process; weak legal profession; etc. amidst other things.⁶⁵

⁴⁵ Ganiyu, note 31, p. 1947.

⁴⁶ Ibid.

⁴⁷ Ex-Governors, Pension payments and other Entitlements: Matters Arising, <https://www.shineyoureye.org>, accessed 16/05/2020.

⁴⁸ Tignor, Robert., *Political Corruption in Nigeria Before Independence*, 1993, p. 2.

⁴⁹ Example of corrupt Nigerian politicians who have been indicted in the past include; Nuhu Ribadu, James Ibori, Farida Waziri, late Diepreye Alamieyeseigha, Lucky Igbenidion, Umaru Dikko, Farouk, Patricia Eteh, and a host of others.

⁵⁰ 'Nigeria to recover \$300m stolen by its former military ruler' 'Switzerland News/ Al Jazeera <https://www.aljazeera.com>, accessed 16/05/2020.

⁵¹ 'UK banks aided Nigeria corruption' News/Al Jazeera <https://www.aljazeera.com>, accessed 16/05/2020.

⁵² 'Nigeria Ranks 144/180 on Transparency International's Corruption Perception Index,' <https://allafrica.com>, accessed 10/05/2020.

⁵³ Wikipedia <https://en.wikipedia.org>, accessed 16/05/2020.

⁵⁴ As observed by Peter Eigen, the Chairman of Transparency International. 1993-2005.

⁵⁵ 'The Nigerian Economy before the Discovery of Crude Oil' <https://www.researchgate.net>, accessed 20/12/21.

⁵⁶ 'The forgotten groundnut pyramids of Nigeria, the one-time pride of the West Africa nation.' face2faceafrica.com accessed 17/05/2020.

⁵⁷ 'Structural Change, the Oil Boom and the Cocoa Economy of South-western Nigeria' <https://www.jstor.org>, accessed 17/05/2020.

⁵⁸ 'Abandoned Nigerian Economic Resources: The Case of Oil Palm' www.eajournals.org, accessed 17/05/2020.

⁵⁹ Re-elected Chairman of Transparency International.

⁶⁰ Ganiyu, note 31, p. 1948.

⁶¹ Lesile, note 37.

⁶² Ibid.

⁶³ Leiken, Robert, *Nature, Scope and Challenges of Politics*, 3rd Edition. 1997, p. 19.

⁶⁴ Ibid.

⁶⁵ Klitgaard, S.P, *Introduction to Political Ideas in Africa*. 2nd Edition. 1998.

All of these conditions encourage corruption. Of a truth, it will be unfair to term all Nigerians as corrupt. There are some incorruptible and great minds in Nigeria at all levels, but these are hidden away in a country encumbered with a corrupt government. If the fight against corruption in Nigeria is not matched with honesty, transparency, sincerity, firmness and stern action, then it is nothing but a mere mockery of ourselves.⁶⁶

6. Corruption and the Governance Puzzle in Nigeria

Nigeria has been bedevilled by some high-profile corruption issues in its history especially since after the civil war. The military was characterized by massive looting and various corruption techniques which up till date are still trending outside Nigeria.⁶⁷ The story has not changed much in the civilian regime either.⁶⁸ For example, in 1999, the ploy by some officers of the Central Bank of Nigeria and the Ministry of Finance, to divert \$27 million into private accounts was revealed by one Adeleke Muyiwa. Recently, in 2012, there was the Pension rip-off, which ran into several billion naira. It was an alleged bribery scandal from Hon. Faruk Lawal to Femi Otedola of up to \$600 million.⁶⁹ Presently, Nigerians are crying out that the corona virus epidemic and the daily outrageous increase in figures by the Nigerian Centre for Disease Control, is likely to be a scam for a few persons to defraud government. There is the issue of palliatives for instance, which never got to the 'poor of the poor' it was meant for, moneys pumped into the system for some state governments to use in the fight against Covid 19 was sadly embezzled.⁷⁰ The consequences of corruption in Nigeria are enormous, and include; nepotism; inefficiency in all sectors; distortion of information; it tarnishes the image of the country in the international community;⁷¹ reduces private investments; discourages honest attempts; affects economic growth; promotes fraud and criminality; destroys democratic values; promotes poverty and unemployment; makes economic planning complex and unrealizable; creates injustice, inequity, inequality and undermines the rule of law, among other things.⁷² Many more evils of corruption in Nigeria include the fact that it wastes skills because it is a waste of time to setup committees to monitor government projects or fight corruption; also, foreign donors find it difficult to release help to corrupt countries.⁷³ Corruption leads to public insurgency;⁷⁴ and may encourage military takeovers as it has been one of the reasons for military coups in the past.⁷⁵ Corruption also leads to low quality of goods and services.⁷⁶ Good governance can discourage corruption in any society. Good governance requires transparency, accountability, and the rule of law. Therefore, low or zero corruption is tied to good governance.⁷⁷ When all three principles are combined, corruption is stemmed, and a stable society is achieved. The presence of rule of law, produces equality among citizens despite their social status, political affiliations, ethnic backgrounds, or economic power.⁷⁸

7. A Review of Anti-Corruption Wars in Nigeria

Despite all the initiatives Nigeria has involved in the fight against corruption, the country still remains one of the top three most corrupt countries of the world.⁷⁹ This is a clear indication that the government perhaps, needs to take further and better moves to achieve better results or improve on its existing initiatives. Corruption is the main reason why poverty intensity continues to be high in the country, notwithstanding the fact that Nigeria is the sixth highest supplier of oil in the world and possess other human and natural resources.⁸⁰ The acidic effects of corruption on advancement and developmental progression prompted Obasanjo's governments to set up anti-corruption agencies and programmes for eradicating or abating its occurrence. These, most times record some measures of achievement. Like the anti-corruption watchdogs in various countries, like Hong Kong, Chile, Botswana, Singapore and Malaysia, are frequently acclaimed with much success.⁸¹ For example, in 1985, Ugandan government employed a policy covering deregulation, economic reforms, civil service reform, appointment of a reputable Inspector-General authorized to investigate and bring to court corruption matters, and

⁶⁶ Ganiyu, note 61, p. 1948.

⁶⁷ FG recovers \$311 million Abacha loot from US, Jersey' Nairametrics, <https://nairametrics.com>, last accessed on 20/05/2020); also, 'Corruption and Military Rule in Nigeria.' Global Journal of Human-Social Science <https://socialscienceresearch.org> (last accessed on 20/05/2020).

⁶⁸ Faloore, Olutola. Political Corruption and Poverty in Nigeria, African Journal for the Psychological Study of Social issues, <https://www.ajol.info>, last accessed on 20/05/2020.

⁶⁹ 'Shell is pushed to explain its role in \$1.1bn Nigerian corruption scandal,' www.theguardian.com. (last accessed 20/05/2020).

⁷⁰ 'FG to investigate UPTH over alleged misuse of N950m COVID-19 funds,' <https://www.tvcnews.tv>, (last accessed on 07/12/2021).

⁷¹ 'Corruption worse in Nigeria, new Transparency International report says,' www.premiumtimesng.com, (last accessed on 20/05/2020).

⁷² Ganiyu, note 61. P. 1948.

⁷³ For instance, the International Monetary Fund (IMF) has withdrawn support from notorious corrupt countries, so also, the World Bank has introduced tough anti-corruption standards into its lending policies to corrupt nations.

⁷⁴ OECD Anti-Bribery Convention, 1997 -Wikipedia <https://en.m.wikipedia.org>, accessed 20/05/2020.

⁷⁵ Example is General Buhari's post-coup broadcast to Nigerians in 1983.

⁷⁶ For example, Nigerian roads do not last due to poor quality jobs, which in turn is blamed on corruption by government officials who make contractors pay heavy bribes before they can be awarded contracts.

⁷⁷ The United Nations Educational, Scientific, and Cultural Organization (UNESCO) lists eight characteristics for 'good governance' as follows: participation (including freedom of association); transparency (including citizen's access to information); effectiveness and efficacy (making the best use of resources); responsiveness (serving stakeholders in reasonable time frame); accountability (answering to those affected by decisions); consensus-oriented (or meditation of diverse interests); equity and inclusiveness (ensuring inclusion, particularly of minorities); and the rule of law (legal frameworks that are enforced impartially).

⁷⁸ 'Governance, Corruption, and Conflict,' United States Institute of Peace, Washington, D.C.: A Study Guide Series on Peace and Conflict for Independent Learners and Classroom Instructors, 2010. P. 11.

⁷⁹ Transparency International, Corruption Perception Index. See, Philip M. Nicholas, The Myth of Anti-Bribery Laws as Transnational Intrusion, 33 CORNELL, INT'L L. J., 2000, 627, 638; Okechukwu Oko, Subverting the Scourge of Corruption in Nigeria: A Reform Prospectus, 34 N.Y. UJ, INT'L L. & POL. 397, 639 (2002); see also, Bangladesh Tops Bribery List, INTERNATIONAL OIL DAILY, 2003.

⁸⁰ Nwaodu Nnamdi, Adam David and Okereke Okechukwu, A Review of Anti-Corruption Wars in Nigeria, 'Africa's Public Service Delivery & Performance Review, 2014, p. 154.

⁸¹ Kaufmann, Daniel. *Corruption: The Facts*, Foreign Policy Summer Edition, 1987.

implementation of a public information campaign against corruption. In that same strength, Botswana instituted some economic and public sector reforms to strengthen its anti-corruption unit.⁸² Nigeria is not left out in the anti-corruption fight. The war in Nigeria spans many decades and cuts across alternative governments and regimes, from the military to civilian rules. Each time, different but related mechanisms have been worked out to fight this social menace.⁸³ We shall look at the particular efforts Nigeria has made and is still making towards the fight against corruption.

8. Anti-Corruption Efforts of Government Before/During the Colonial Era

The anti-corruption war in Nigeria dates back to the pre-colonial period of the country's history. The pre-colonial period was characterized by policies and institutions pre-set to curb corruption. For instance, the *Alaafin* of Oyo,⁸⁴ stands to either commit suicide or be banished in the event of some gross abuse of office.⁸⁵ This was an act necessary to ensure the *Alaafin* does not engage in corrupt practices, just as he too was to make sure his officers do not engage in any corrupt practice. In Igbo societies of Eastern Nigeria, everyone was expected to be upright, for this reason, the *Igbos* did not recline power on any solitary individual. So also, the Emir in the North of Nigeria, was verified by some communal efforts of his officers, to ensure he remains upright.⁸⁶ Also, in the North, the *Sharia* laws set a standard and punishments for all the faithful of *Allah* and Prophet Muhammad, including the Emir.⁸⁷ In the early period of British rule, complaints were made against some Emirs and local Chiefs who could not show accountability for money entrusted on them. This made the administrators to make a proclamation that corrupt officials would be terminated from their employments and also jailed. In addition, some elements of accounting and auditing guidelines were circulated to warn all such officials.⁸⁸ In addition, the traditional anti-corruption agencies like the police and traditional courts, were trained to handle corruption. The awareness to fight corruption during the colonial era was awakened by the Emir of Gwandu during the meeting of the Northern House of Chiefs. He raised a motion and the House agreed that indeed corruption was prevalent and recommended that Native Authorities should punish offenders and enlighten the general public against corruption.⁸⁹ This was the case until the 1950s when the colonial administrators decided to shift from the traditional anti-corruption machineries to employing commissions of enquiry to look into cases of corruption. The first Commission of enquiry was the Justice Stafford Forster-Sulton Commission of Enquiry of July, 1956, which was set up to probe possible abuse of office by Dr. Nnamdi Azikiwe, the then premier of Eastern Region, who was alleged to have plunged public funds into a personal business. And truly, in the Commission's Report, Dr. Azikiwe was heavily indicted. This made him to transfer his rights in the bank to the Government of the Eastern Region.⁹⁰

9. Anti-Corruption Efforts of Government During the Military/Civilian Rules

Corruption and Nepotism were the very strong reasons given for the 1966 *coup d'etat*, which at that time gave Nigerians some hope that they have finally come to see the end of corruption in government. Contrary to expectations, the military became even more corrupt than the very civilians they came to reform. General Murtala Mohammed in his short rule launched the foremost military-sponsored fight against corruption- the 'Operation Purge the Nation' - which was intended to purge the country of both administrative and political incompetence, thereby restoring sanity and professionalism to the public service.⁹¹ Over 11, 000 civil servants were purged of corruption through the efforts of this anti-corruption program.⁹² But this, as always the case, turned out to be temporal and partial measure used to punish supposed enemies and settle personal scores. Rather than effect good, the program turned out to jeopardize professionalism as the basis for retrenchment were arbitrary and devised to get rid of those who had nobody in power. This led the second republic President Shehu Shagari to voice his worries at the massive scale of corruption and other vices in the country.

The Constitution⁹³ of Nigeria provided a Code of Conduct for public servants, to be administered by the Code of Conduct Bureau to enforce the recommended conducts. Shagari also employed a Minister of National Guidance to lend some moral leadership against corruption. Hitherto, these measures seem not effective in fighting corruption, as the country plunged deeper into more sophisticated corruption. This again resulted in the military takeover of 1983, which became necessary to "curb corruption in the system."⁹⁴ After the Coup in 1983, Major General Idiagbon, who was one of the kingpins of the coup d'état and who became the Vice- Military President next to General Muhammadu Buhari, introduced yet another anti-corruption plan-'War Against Indiscipline,' (WAI). This was meant to re-emphasize as well as promote discipline, sanity and professionalism in the civil service. This good intention, was again derailed from focus as it was not properly effected. It rather increased corruption⁹⁵ and died the moment that regime was overthrown by the Ibrahim Badamosi Babangida (IBB)

⁸² Nwaodu, Nnamdi, An Appraisal of Economic and Financial Crimes Commission (EFCC) and the War Against Corruption in Nigeria (1999-2007)', International Journal of Research in Arts and Social Sciences, 2012.

⁸³ Ibid.

⁸⁴ The head traditional political leader in Yoruba Society, in western Nigeria.

⁸⁵ Ezenwaji, Ifeyinwa. Traditional Administration System in Nigeria, A Study of Selected Nigerian Societies, Enugu, Institute for Development Studies, 2000, p. 2.

⁸⁶ Nwaodu, note 84, p. 28.

⁸⁷ Ibid.

⁸⁸ Falola, Toyin. Corruption in the Nigerian Public Service 1945-1960, in Corruption and the Crisis Institutional Reforms in Africa, Mnaku, J.M. (ed. 1998).

⁸⁹ Adebayo, Augustus. Principles and Practice of Public Administration in Nigeria, Ibadan 1989, p. 57.

⁹⁰ Chukwudum, Godwin. Corruption and Bribery in the Nigerian Economy, An Empirical Investigation, 2004, p. 23. Nwaobigenwubia@yahoo.com (last accessed on 10/12/2021).

⁹¹ Nwaodu, note 84.

⁹² Ibid.

⁹³ 1979, 1989 and the 1999 Constitutions of the Federal Republic on Nigeria.

⁹⁴ Inegbedion, Nathaniel. Corruption and Anti-Corruption Legislations in Nigeria: A Critique, Department of Public Law University of Benin, Benin City, Nigeria, 2001.

⁹⁵ Mbaku, note 94.

regime. The Buhari and Idiagbon regime instituted a special military tribunal to recover public funds and properties in the hands of the past civilian government. Those convicted were given hard prison terms. Although, the WAI program was criticized as a way the military subverted national laws to deal with public servants found guilty of corruption. Up till now, there were no laid down legal framework to fight corruption in Nigeria. The IBB administration succeeded the Buhari/Idiagbon regime. It gradually tore apart WAI, on grounds of its rigid, highhanded and uncompromising nature. The IBB regime recorded the highest incident of corruption in every sector and especially in the oil sector.⁹⁶ This was seen in the various decrees passed by this regime directing that all the properties earlier confiscated from previous government officers be given back to them.⁹⁷ It became later reasoned that his generosity was to entice these beneficiaries to support his political ambitions. He was succeeded by the Interim National Government headed by Ernest Shonekan, which lasted for a period of three months and could not add anti-corruption war to its agenda, which was chiefly to conduct a credible election and reinstate democratic rule in the country. Shonekan however, could be commended for his submissions and contributions to the National Assembly to encourage the fight against corruption. Although, none of his contributions was implemented. Shonekan was shoved aside by the General Sani Abacha regime. Abacha instituted his own anti-corruption program, the 'War Against Indiscipline and Corruption' (WAIC). He also formed the National Orientation Agency (NOA) and several panels were instituted to probe several government parastatals and agencies, which included the NITEL, Customs, Nigerian Airways, etc. Notwithstanding, Abacha's efforts was not plausible because his cabinet was characterized by people who had been previously indicted by past panels of enquiry. Besides, top officers of his cabinet failed to declare their assets as entailed by the Code of Conduct Bureau (CCB). These made Abacha's efforts towards fighting corruption less credible and lacking in integrity.⁹⁸

10. Anti-Corruption War During Obasanjo's Rule

In President Olusegun Obasanjo's civilian rule of 1999, he made his intention to fight corruption clear and tried to put in place some machineries towards achieving this goal.⁹⁹ He started by forwarding a bill to the National Assembly for approval.¹⁰⁰ Next, he constituted panels to reassess various contracts and appointments instituted by the previous administrations. The panels were able to clip down 500 national awards arbitrarily granted to some citizens, probe the feat of key projects in the Federal Capital Territory (Abuja), decide the number of contracts to be awarded by the Senate between June 1999 to July 2000, and make out members of Senate to award contracts and who the contracts were awarded to and how much is involved. There was also the much-applauded Oputa Panel which was to probe human right abuses right from 1966. Besides the use of panels, the Obasanjo administration adopted budget transparency, procurement reforms, eradication of budgetary expenditures, and the formation of the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices and Other Related Offences Commission (ICPC), Code of Conduct Tribunal, etc. Obasanjo also revived existing anti-corruption outfits like the courts and police. These revived a little, the already smudged image of the country especially to the international world.¹⁰¹ Luckily, these anti-corruption agencies instituted by Obasanjo subsists his administration and are still working to this day. Space may not permit us to examine each of them, but we may pick out one among them, which is the EFCC.

11. The Operations of the EFCC in the Anti-Corruption War in Nigeria

The Economic and Financial Crimes Commission (EFCC) was established in 2002 by the Obasanjo's administration in its determination to fight corruption in Nigeria. It started its formal operations in 2004. It was chaired by Nuhu Ribadu. The Commission is empowered to enforce and administer the Economic and Financial Crimes Commission Act. It is to investigate financial crimes, such as the advanced fee fraud, counterfeiting, money laundering, illegal cash transfer, contract scam, credit card fraud, etc. The EFCC has taken the anti-corruption war very seriously and has recorded some success in this regard. Through the EFCC, government has been able to actively collaborate with the International Police (Interpol) to crackdown some key players behind fraudulent use of e-mails to defraud gullible victims all over the world. Many suspects have been arrested and millions of dollars seized, and other innovations had been achieved by this agency.¹⁰² Through the EFCC, government has been able to recover billions of Naira from cheats.¹⁰³ Also, the Commission has arrested and prosecuted over 200 persons, irrespective of status in the society.¹⁰⁴ The EFCC has also recorded some success in the arrest and prosecution of some top politicians in Nigeria.¹⁰⁵ A commendable practice of the EFCC is that they ensure that the stolen fund is refunded.¹⁰⁶ Although, many are worried what government do with these recovered funds.¹⁰⁷

⁹⁶ Lewis, Peter. *The Politics of Economics*, African Report, 1984.

⁹⁷ Kempe *Hope Ronald* (ed.) *Corruption and Development in African*, 1998.

⁹⁸ Nwaodu, note 96.

⁹⁹ Chukwudum, note 99.

¹⁰⁰ The bill was termed 'A Bill for a Law to Prohibit and Punish Bribery and Corruption of or by Public Officers and Other Persons' presented by the President, on the 7th July, 1999.

¹⁰¹ As seen by the rating of Transparency International: Corruption Perception Index (CPI), which alternated Nigeria from the most corrupt country to second and third most corrupt country.

¹⁰² Adesugba, Adesoji, *Anti-Corruption Efforts of the Obasanjo's Administration*, Office of the Assistant Director, External Publicity Federal Ministry of Information and National Orientation, 2004.

¹⁰³ 'The Funds recovered by the EFCC,' m. guardian.ng accessed 13/6/2020; 'EFCC recovers N871billion looted funds, 407 mansions in 3 years- Magu- Vanguard News <https://www.vanguardngr.com>, accessed 13/6/2020; 'EFCC recovers N794 billion, secures 1,900 convictions' - Premium Times Nigeria <https://www.premiumtimesng.com>, last accessed on 13/6/2020.

¹⁰⁴ Some persons arrested by EFCC in 2019 include Ismaila Mustapha (accused for cybercrimes); Azeez Fashola alias Naira Marley (for international fraud allegations); Omoniyi Temidayo Raphael alias Zlatan Ibile (accomplice of Naira Marley)- '5 biggest EFCC arrests of 2019' available @pulse.ng accessed 13/06/2020.

¹⁰⁵ Examples include- Alhaji Tafa Balogun former Inspector-General of Police who was forced to resign as soon as his corrupt practices was made public. He was later investigated and convicted; there is the bribery scandal involving the former Minister of Education Professor Fabian Osuji and the former Senate President Chief Adolf Wagbara; and the case of Chief Bode George who was arraigned by EFCC on a

12. Buhari's Anti-Corruption Fight in Nigeria

Buhari was elected in May, 2015. One of his election campaign and his major means to victory was his promised fight against corruption. This is six years into his eight year double-term, but not much progress has been achieved. All government and state owned corporations have at various times in history played very important roles in the country's economy. And many of them have also faced systemic inefficiency, mismanagement and corruption. Buhari's first step, on assuming office, was to dissolve the governing boards of most of the parastatals and assumed direct control in the decision making process. Another significant thing was his personal involvement in the Nigerian National Petroleum Company (NNPC). He dismissed the Chief Executive Officer and appointed another as the subordinate petroleum minister. Many Managers were sacked. In the meantime, NNPC kept on doing business with some politically allied companies who had been subjects of controversy in previous administrations. He promoted some Bills to suppress economic crimes.¹⁰⁸ Nigeria, continues to rely on international cooperation of foreign governments to recover stolen funds.¹⁰⁹ It was the Buhari's administration that actually emphasized the need for international collaboration in the global fight against corruption. Despite all these measures adopted over the years, there is still not much success achieved as seen in the recent rating of Nigeria as 146 out of 180 in the global position by the Transparency International.¹¹⁰ There is still not much achieved in terms of development and infrastructure in the country.¹¹¹ The much-desired improvement continues to elude the country largely because of bad governance, which lacks accountability, transparency and rule of law. No corrupt leader can make any effectual war against corruption. The ostensible failure in the fight against corruption in Nigeria is not due to the fact that perhaps Nigeria lacks adequate legal and institutional frameworks to fight corruption¹¹² or to achieve zero corruption. The compass at this juncture seems to perhaps point at how we are handling the fight in Nigeria. It is obvious that law *simpliciter* is not enough to win the war against corruption.¹¹³

13. What Are We Not Doing Right in the Fight Against Corruption in Nigeria?

The Legislature and the Judiciary

The interest of the masses appears not to be the utmost priority of the legislative in making the law. For example, to avoid lapses, unanticipated cases could be captured in an omnibus provision of the law.¹¹⁴ Such omnibus laws are applied irrespective of the nature and gravity of corruption. Also, the judiciary in their strict compliance with the provisions of the law, has not been fair to the people. This is seen in countless cases lost by the EFCC over the years.¹¹⁵ By so doing both the legislature and the judiciary are frustrating the anti-Graft war against corruption in Nigeria. If the fight must be won, both the legislative and judiciary must have a re-orientation in dispensation of their duties and must have the interest of the poor masses who are the victims of corruption in mind. Another much talked about error of the legislature is the institution of plea bargain for corruption charges in the recent Administration of Criminal Justice Act, 2015. Plea bargaining is clearly a soft landing used by the legislature to free corrupt politicians who stole billions of public funds at the expense of the masses, while a mere theft attracts a penalty of imprisonment.¹¹⁶ When an offence becomes notorious and prevalent, it attracts very grave measures for it to be eradicated.¹¹⁷

Morality and Law

No matter how loathsome corruption may be, if it is not captured as a crime against moral codes and norms in the mind of the people; and captured in a definite statute and with sanction attached to it, the fight may be a mere waste of time. Like,

163-count charge truncated to 68-count charge, surrounding an alleged misappropriation of Nigeria Ports Authority (NPA) funds to the tune of N85 billion. (see <http://www.punchng.com/Article.aspx?theartic=Art2009102703418530>).

¹⁰⁶ For example, is the case of Dariye, the People's Democratic Party (PDP) had to refund N90 million, and Senators led by Wagbara refunded N55 million; there was also the case of Mrs. Cecilia Ibru, the Managing Director and Chief Executive Officer of the defunct Oceanic Bank Plc. Mrs. Ibru was found guilty under Section 15(1)(a) of the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act of 1994, Laws of the Federation of Nigeria; there was also the case of the former Governor of Nasarawa State, Alhaji Abdullahi Adamu. He was arraigned on a 149 count charge of looting about N15 billion out of the state treasury during his 8- year-tenure as Governor, etc.

¹⁰⁷ 'Sultan to GF: Tell us where recovered loots are.' dailytrust.com accessed 2/6/2021; 'Reps Question EFCC, ICPC over recovered loots' accessed on 02/06/21; 'SERAP to Buhari: Disclose spending details of \$700 recovered funds.'

¹⁰⁸ These include Amendments to the Money Laundering Prevention and Prohibition Bill; the Mutual Legal Assistance in Criminal Matters Bill; and the whistle-blower Protection Bill.

¹⁰⁹ Some promising cross-border work in recent times include the arrest of former petroleum minister Diezani Allison-Madueke and others in London in 2015 as a result of a joint Nigerian-UK investigation. The former petroleum minister faced an imminent criminal trial in the UK, and Nigerian authorities supplied indebt evidence to aid her prosecutors. To achieve better success, Nigeria and UK governments signed a memorandum of understanding on the repatriation of stolen funds.

¹¹⁰ 'Nigeria drops point in global corruption index, ranked 146 out of 180 countries,' www.vanguardngr.com (last accessed on 18/6/2020).

¹¹¹ As evident in the ongoing Corona virus (Covid 19) pandemic, which has exposed the health sector. Nigeria cannot boast of one good up to date world standard hospital. Also, the palliatives given by the federal and State governments were couched in fraud as it hardly got to the "poorest of the poor."

¹¹² Ijeoma Opara, Nigerian Anti-Corruption Initiatives, *Journal of International Business and Law*, Vol. 6, Issue 1, Art 4, 2007, p. 11.

¹¹³ Allot, A, *The Limits of Law*, 45-46 cited in Mohammed, A., *The Jurisprudence of Corruption*, 1980, p. 2.

¹¹⁴ An example is the provision of Section 19 of the Corrupt Practices and Other Related Offences Act, 2000, which merely prescribes a five-year jail term for corrupt public officers.

¹¹⁵ A recent example is seen in the recent Supreme Court judgement quashing the conviction and sentence of the former Governor of Abia state, Orji Uzor Kalu. The apex court relying on technicalities let the noose off the neck of an ex-Governor whose conviction was upheld by the Court of Appeal and whose corrupt practices were so vivid that even the blind could see.

¹¹⁶ Glory Ozuru, *Justifiability of Plea Bargain in the Fight Against Corruption in the Nigerian Criminal Justice*, *Uniport Law Review*, 2017, p. 28.

¹¹⁷ *Ibid.*

justice could not be done in the case of *Aoko v. Fagbemi*,¹¹⁸ where it was held that adultery was not an offence because it was unknown to the Criminal Code Laws of Southern Nigeria. Corruption is limited by moral values and deterrence. Although, the people believe corruption is wrong and injurious to society but they have not begun to see it as shameful and immoral act just like stealing, adultery, kidnapping, ritual killing, etc., which if discovered should be apprehended and punished irrespective of ethnicity, political party, religion and other circumstances.¹¹⁹ According to Udofia, public standards decide what is or what is not corruption.¹²⁰ Allot rightly enjoined that the control of corruption is better found on the union of law and morality.¹²¹ Law alone may try but it cannot be effective if the people it seeks to control are not boosted by some lofty ideals entrenched in morality. It is the opprobrium society attaches to a conduct that determines whether such conduct would be tolerated or not.¹²² Until Nigerians regard an alleged corrupt man or woman as they would regard an alleged kidnapper, ritual killer, armed robber, etc. and seize from glorifying them on the guise of ethnicity, tribalism, etc. not much progress would be made in the fight against corruption in Nigeria.

Intricacies of Corruption and the Offenders

Due to the growing complexities of corruption all over the world as a result of advancement in technology, corruption is increasingly becoming more sophisticated in nature. This is seen in the increasing collaboration of Nigerians and foreigners in the act of corruption. For example, advance fee fraud and related offences are being carried out by both citizens and non-citizens.¹²³ It is obvious that our law enforcement agencies and other regulating bodies like the EFCC may be weak to restrain money laundering and fraudulent moves of transnational criminals. This explains why despite all the regulating bodies; stolen monies are still being discovered overseas by foreign agencies instead of the local bodies under whose jurisdictions such monies were removed. To this effect, money laundering legislations should be a fundamental constituent in the fight against corruption.

Intricacies of the Criminal Justice System

The Nigerian criminal justice is a replica of the English law which presumes the accused as innocent until otherwise proven. The burden rests on the prosecution to establish the guilt of the accused beyond reasonable doubt. It is not in the place of the accused to prove his innocence. This sometimes, act as an escape root for offenders where the prosecuting body does not have enough facts to sustain their conviction even when it is very glaring that they are corrupt. Another difficulty here is the issue of differentiating a 'gift' from a 'gratification'. For instance, the Corrupt Practices and Other Related Offences Act, 2000¹²⁴ provides to the effect that it is criminal for a public officer to receive gratification. It is therefore left for the anti-corruption agencies to be proactive and pre-emptive in dealing with criminals, particularly, in the face of emerging technologies and trans-national crimes.¹²⁵ Another difficulty in this regard is the problem of identifying the appropriate law under which an offender could be tried. Nigeria, being a signatory to the United Nations and African Union Conventions, had domesticated such instruments into municipal laws, as Corrupt Practices and Other Related Offences Act 2000; the Economic and Financial Crimes (Establishment) Act 2004; Money Laundering Prohibition Act 2011, etc. Where an offence falls into any of these categories of law, the agencies most often find it difficult to know under which law to investigate and prosecute the offender.¹²⁶ This too accounts for the many failures of the EFCC.

Immunity of Some Public Officers

The law protects certain Public Officers against prosecution while in office.¹²⁷ Although, the Supreme court has made it known in *Fawehinmi v. Inspection General of Police & 2 Ors*,¹²⁸ where it held that section 308 did not provide immunity against criminal investigations levelled against them while in office. This decision of the apex court encouraged the EFCC and ICPC to start investigating sitting governors. Besides, many public officers are reluctant to declare their assets.¹²⁹ In, *Bola Tinubu v. IMB Securities Plc*,¹³⁰ it was held that the purpose of immunity clause is to prevent such executive from being repressed in the performance of their duty. Some Asian countries are worth emulating in this regard, as they have made corruption a capital offence.¹³¹ For example, China, Thailand and Indonesia, punish corruption by death.¹³² The case of

¹¹⁸ [1969] 1 All N.L.R. 400.

¹¹⁹ A thief or kidnapper, for instance, needs the timely intervention of the police to escape the wrath of the public if caught. This is a reflection of how the people see what he or she has done. But in the case of corruption, Nigerians consider ethnic or other social affiliations with the offender.

¹²⁰ Abbia Udofia, note 128.

¹²¹ Allot, note 127.

¹²² Ibid.

¹²³ Jim Buchanan and Alex Grant, Investigating and Prosecuting Nigerian Fraud, United States Attorneys' Bulletin, 2001, p. 39.

¹²⁴ Section 60.

¹²⁵ Udofia, note 137.

¹²⁶ Ibid.

¹²⁷ Section 308 of the 1999 Constitution gives the President, Vice President, State Governors and their deputy's immunity from civil or criminal proceedings during their period of office. Subsection 1(b) of the section provides that they cannot be arrested or imprisoned while in office pursuant to the process of any court neither can any process of court be applied for or issued to compel their appearance in court. They can only be nominal parties in a civil or criminal proceeding.

¹²⁸ (SC 201/2000) [2002] 6 (10 May 2002).

¹²⁹ Former President Goodluck Jonathan, despite calls that he declares his assets publicly, refused to do so. Such could be taken as an evidence of lack of transparency in any administration.

¹³⁰ (2001) 16 N.W.L.R (P t. 730).

¹³¹ Olaleye, Awe, Akosile, Abimbola, et al (2012), Transparent International Ranks Nigeria 35th Most Corrupt Nation, Thisday 6/11/2012, p. 8-9.

Nigeria demands that such extreme measure be employed in the fight. Unless the criminals are caught and appropriately punished to *deter* others, corruption will continue in Nigeria. It is a common practice for government, judiciary or the anti-graft agencies to catch offenders and let them off the hook cheaply.¹³³

The EFCC Power to Prosecute but with the Over-Riding Powers of the Attorney-General

The EFCC has the powers to prosecute offenders under the EFCC Act.¹³⁴ The Commission has a Unit specially provided for that course.¹³⁵ This Act provides such prosecutorial powers for the Commission.¹³⁶ But the power to prosecute under the Act is subject to the superseding powers of the Attorney-General.¹³⁷ The Attorney-General is also mandated to discontinue a criminal proceeding instituted by any authority. Thus in, *State v. Ilori and Others*,¹³⁸ the Supreme court held that such powers of the Attorney-General under section 174 are absolute as the Court cannot consider it in the interest of justice, prevention of abuse of legal process and for public interest. So, the Attorney-General has the powers to institute criminal proceedings after the Commission has done its investigations. He also has the powers to take over, continue or discontinue an already instituted proceeding of the EFCC. If the matter must be discontinued, the Attorney-General is not duty bound to give reasons for its discountenance because it is assumed that it was discontinued in the interest of the public. Also, in *State v. Adamu Garba*,¹³⁹ the Federal Court of Appeal frowned at the order issued by the Kaduna State High court compelling the Solicitor-General and the Attorney-General to appear and continue with a criminal matter before the court.¹⁴⁰ This has encouraged cybercrimes, internet fraud and other related crimes.¹⁴¹

Inadequate Funding of the Anti-Corruption Bodies

Nigeria cannot win the fight if it continues to starve its anti-graft agencies of funds. These agencies are left without funds to oversee their financial commitments. Investigations conducted by *Sunday Leadership*, shows that federal allotments to these agencies have reduced in recent years which can only be attributed to government's lack of seriousness in the fight against corruption.¹⁴² At a point, the EFCC could hardly pay its lawyers. Poor funding can stand as a temptation in the way of the anti-graft agencies and encourage them to compromise their standards.

The wrong ways Nigeria is handling its fight against corruption have led Asobie to summarize the reason for the ineffective results Nigeria is getting in the fight against corruption.¹⁴³ According to him, the fight against corruption in Nigeria is mainly a federal affair through its anti-corruption agencies. So far, the fight is lacking political will as it is not fronted by the political class. Notwithstanding, the constitutional provisions for the anti-corruption fight are not staunchly implemented. Finally, Nigeria lacks a standard national tactical plan.

14. Conclusion and Recommendations

After x-raying the challenges posed by corruption and good governance in Nigeria, it becomes obvious to note that corruption is injurious to the well-being of every society.¹⁴⁴ Good governance means transparency and transparency exists only when the people have a clear perspective of what the government is doing. It is wrong for the EFCC to adopt "plea bargaining" rather than very strict laws in the fight against corruption. Nigeria needs appropriate laws to succeed in the fight against corruption. It must change its ideologies and expand its horizons. It takes strict and enforceable laws, good governance, public re-orientation, stiffer measures, good moral values and consistency, people-oriented legislature, and a stern judiciary to overcome corruption in any society. Therefore, all hands must be on deck- private sector, civil

¹³² "Death Sentence for Perpetrators of Criminal Acts of Corruption in Indonesia," <https://www.psychosocial.com> last accessed on 12/11/2021; also, China allows death penalty for 'extremely serious' corruption cases, <https://m.dw.com> last accessed on 12/11/2021. Although, not done openly, some Asian countries like China do it informally.

¹³³ A typical case is the recent release of Orji Uzor Kalu, a former Governor whom the Commission greatly indicted in over N7 billion fraud and prosecuted. Both the trial courts convicted and sentenced him, this was upheld by the appellate court, only to be set free on technicalities of the law by the Supreme court.

¹³⁴ Section 11(1)(b) of the EFCC Act.

¹³⁵ This is the "Legal and Prosecution Unit."

¹³⁶ Section 12(2).

¹³⁷ Section 174 of the 1999 Constitution.

¹³⁸ (SC 42/1982) [1983].

¹³⁹ [2000] 6 NWLR (Pt. 661) 378.

¹⁴⁰ This calls to mind a petition filed before the National Judicial Commission (NJC) by a UK-based Nigeria citizen against the then outgoing Governor Peter Odili of Rivers State in 2007. The EFCC made its investigations into the finances of the State and discovered that over 100 billion Naira of Rivers State had been diverted by the Governor. The Commission also discovered other grave allegations of fraud, conversion of public funds, conspiracy, foreign exchange malpractice, abuse of oath of office, stealing and money laundering. The State through its Attorney-General filed a suit challenging the powers of the EFCC to probe the affairs of the State, claiming that the activities of the Commission were prejudicial to the smooth running of the State. The case was given an accelerated hearing and about two months later, the trial court granted all the declaratory and injunctive reliefs sought by the plaintiff, which include a declaration that the investigations by the Commission between countries is unconstitutional, unlawful, invalid, null and void. An injunction was given restraining the EFCC and the other defendants from publicising the report of the investigation; as well as a perpetual injunction restraining the EFCC from any further action in relation to the alleged economic and financial crimes committed by Peter Odili.

¹⁴¹ Richard Amaechi and Eme, Okechukwu, *Analyses of Legal Frameworks for Fighting Corruption in Nigeria: Problems and Challenges*, Kuwait Chapter of Arabian Journal of Business and Management Review Vol. 5, No. 3, November 2015.

¹⁴² The agencies reviewed were the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC), Code of conduct Bureau (CCB), and the Code of Conduct Tribunal (CCT). For instance, while the EFCC got N13.8 billion allocations in 2011 fiscal year, it declined to N10.6 billion in 2012, further decreased to N9.8 billion in 2013 and N10.2 billion in 2014, etc. ICPC got N3.6 billion in 2013 and N4.6 billion in 2014; CCB got N1.4 billion in 2011 and N2.9 billion in 2013, etc.

¹⁴³ Asobie, Humphrey Assisi., *The Corruption Perception Index*, *The Guardian*, 2012, p. 61.

¹⁴⁴ Arowolo, Dare. *Ethnicization of Corruption in Nigeria*, *Journal of Financial Crime*, Vol. ahead-of-print No. ahead-of-print, 2020, <https://doi.org/10.1108/JFC-06-2020-0106> last accessed on 11/11/2021.

organizations, public sector, government, and individuals both old and young to fight corruption in Nigeria. It is recommended that there should be an effective investment of recovered loots. The Constitution should be revised to reflect the competence of all tiers of government to legislate on corruption. It should not be only a federal government affair. A special court should be established to try corruption matters with a specific time frame of not more than six months. The immunity clause that shields certain officers of the legislature, executive and judiciary should be expunged from the Constitution. There should be true equality before the law and everybody must be accountable. Government should be more transparent in its spending, allocations and contracts. All the anti-corruption agencies should be empowered and connected to the international anti-corruption groups such as Transparency International. This will enable them to build up their competence and observe their international teammates towards achieving a corruption free world. The Code of Conduct Bureau ought to authenticate and identify resources and the assets of political office holders as a prerequisite for their being sworn into office and before they leave office. The Central Bank of Nigeria (CBN) should hasten all efforts toward curtailing money laundering and related crimes in the financial sector, most especially, among politicians and other top government officials. Nigerians should hate corruption like a plague, irrespective of who is involved. Corruption is a crime and all crimes are offences against society and should be collectively dealt with. Finally, the fight against corruption in Nigeria must cut across language, ethnic, tribal, family, and friendship barriers. The offence should be treated same way as other grave offences in Nigeria.