

Vicissitudes of Corruption in Nigerian Judiciary during Economic Comatose: Implications and Eradication Strategies

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Abstract

Judiciary is one of the three arms of government in Nigeria vested with the responsibility of interpreting and applying the law without fear or favour. The Nigerian judiciary system being a critical linchpin in combating corruption keeps Nigerians with bated breath during the incidents of awaiting the verdict of the courts. This paper examines the vicissitudes of corruption in Nigerian judiciary system during economic comatose and its implications. The paper explored Nigeria judiciary focused corruption literature and scholarly works to dissect the vicissitudes of judiciary corruption on economic development of Nigeria. The findings revealed that the prevalence of corruption is caused by manipulation of adjudication process by influential members of the society, insufficient salary and welfare package, politicization of appointment of judiciary personnel, inadequate ICT facilities, complex procedural rules and weak monitoring system. The study further revealed that the economic implications of judicial corruption are poverty, indebtedness, poor productivity, inability to control crime and threats to national security. From the findings of the study, the researchers recommended that judiciary system should be given autonomy to manage its funds for payment of salaries and provision of adequate information management system. The researchers further stressed the need for constitution of special committee comprising of government arms and bar association for the appointment and promotion of judiciary personnel as well as severe penalty for compromised judiciary personnel.

Keywords: Nigeria, Corruption, Judiciary, Economic Development

INTRODUCTION

Nigeria, despite being blessed with abundant resources and high-quality human capital is yet to find its rightful place among the comity of nations. The failure of Nigeria to institute a peaceful and stable economic development has attracted so much debate. Several problems have been identified as responsible for this, including indiscipline, corruption and injustice^{1,2}. Notably, the magnitude of corruption in Nigeria has been a source of concern to people around the world³. The word ‘‘corruption’’ derives its etymological origin from the Latin word ‘‘CORRUMPO’’ which means ‘‘to corrupt’’, to pervert or deprave; to rot or contaminate, and to spoil.² World Bank defined corruption as: ...

The abuse of public office for private gain. Public office is abused for private gain when an official accepts, solicits or extracts a bribe. It is also abused when private agents actively offer bribe to circumvent public policies and processes for competitive advantage and profit... public office can also be abused for personal benefit even if no bribery occurs through patronage and nepotism. The theft of state assets, or the diversion of state revenues.⁴

The Blacks’ Law Dictionary refers to 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 personally or for someone else, contrary to the rights of others.⁵

Also, the Nigerian Independent Corrupt Practices Commission Act defines corruption to include bribery, fraud and other related offences.⁶ In other words, a fundamental aspect of corruption reveals the fact that people or systems do not perform the duties originally intended to perform or such duties are performed in an improper way to the detriment of the original purpose.

Corruption has been identified as one of the main challenges of Nigeria’s ambition to achieve sustainable economic development and to lift Nigerians out of poverty.⁷ The origin and root of corruption in Nigeria dates back to the colonial period and has since metamorphosed into

¹ I.O. Babatunde, and A.O. Filani. Corruption in Nigerian Courts: Fashioning the Way Out Through Legal and Institutional Mechanisms. *Journal of Law and Global Policy*. 2017, Vol. 3 No.1

² V.U. Onyemelukwe. Curbing corruption in Nigeria: socio-economic, legal and political perspectives. 2017

³ Nwosu Uchechukwu Wilson, the impact of corruption in the administration of justice in Nigeria. *Journal of good governance and sustainable development in Africa*. Vol 4, No 1, April 2018.

⁴ World Bank ‘‘Helping Countries Combat Corruption: The Role of the World Bank’’ at <http://www.worldbank.org/publicsector/anticorrupt/corruption/coro2.tm>. Accessed on January 10th, 2022. See also, Nye, J.S (1967) ‘‘Corruption and Political Development: A Case Benefit Analysis’’ *The American Political Science Review* pp.417-427

⁵ Garner, B.A (ed.) (1999) *Black’s Law Dictionary*, 7th Edition (St. Minnesota West Group) p.348

⁶ Section 2, Independent Corrupt Practices Commission Act, 2004

⁷ See D.K. Fantaye, Fighting Corruption in Third World Countries. *Journal of Criminal Law*, 2004, 170 pp.171-172

a cankerworm that has eaten deep into the fabrics and all facets of our society.⁸ Consequently, Nigeria's Corruption Perception Index (CPI) ranked 135th, 144th, 136th, 136th, 148th, 144th, and 146th position in 2012, 2013, 2014, 2016, 2017, 2018 and 2019 respectively in the world.⁹ The implications over the years have been acute negative impact on economic development, substantial increase in bribery and corruption leading to increase in cost of government expenditure on developmental projects; political destabilization of the nation; increase in brain drain with professionals deserting our shores for better life overseas; decimation of the country's international image; reduction in the quality of goods and services; and detraction of the inflow of foreign investment.¹⁰

United Nations,⁶ noted that:

Out of all Nigerian citizens who had at least one contact with a public official in the 12 months prior to the 2019 corruption survey, 30.2 per cent paid a bribe to, or were asked to pay a bribe by, a public official. The North-Central, South-East and South-South zones recorded further increases in the prevalence of bribery from 2016 to 2019. It is estimated that some 117 million bribes are paid in Nigeria on a yearly basis, the equivalent of 1.1 bribes per adult. More than 93 per cent of all bribes paid in 2019 were paid in cash, a slightly larger share than in 2016 and the average cash bribe paid was 5,754 Nigerian Naira (NGN), a sum equivalent to roughly \$52 in Purchasing Power Parity (PPP). Overall, it is estimated that a total of roughly NGN 675 billion was paid in cash bribes to public officials in Nigeria in 2019, corresponding to 0.52 per cent of the entire Gross Domestic Product (GDP) of Nigeria. The economic cost of bribery becomes even more palpable when considering that, on average, bribe-payers pay an amount equivalent to 6 per cent of the average annual income of Nigerians.

Considering the alarming level of looted resources experienced in Nigeria, one ponders whether the menace can be stamped out of the country. Unfortunately, this seemingly act of corruption has submerged Nigeria such that it makes it very likely to pervade the unborn future generation of Nigeria.¹¹ In the same view, the Supreme Court of Nigeria in *A.G Ondo State v A.G Federation*¹² held that:

⁸ Alegeh A.O., "The Role of Law Officers in the Fight against Corruption", Being a paper presented at the 1st Annual National Conference of the Law Officers Association of Nigeria (LOAN), at Olusegun Obasanjo Auditorium, Federal Ministry of Justice Abuja, on the 16th of November 2015, p.2.

⁹ I.A. Atanda, A.J. Omede, and S.R. Olanrewaju. 'A nation bewildered and a state in comatose': corruption and socio-economic development in Nigeria. *Revista Universitară de Sociologie*. Year XVII, Issue 2. pp296

¹⁰ D.K. Fantaye. Fighting Corruption in Third World Countries. *Journal of Criminal Law*. 2004, 170 pp.171-172

¹¹ Uma and Eboh, Corruption, Economic Development, and Emerging Markets: Evidence from Nigeria. *Asian Journal of Management Science and Education*, (2013), 2 (3).

¹² The present democratic administration in Nigeria came into being on the 29th of May, 1999. Since that time, three Senate Presidents had been removed from office on the allegation of forgery and corruption. The removed past Senate Presidents were late Chief Ewerem (1999), Late Chuba Okadigbo (2000) and

*It is quite plain that the issue of corruption in Nigerian society has gone beyond our borders; it is no more a local affair. It is a national malaise which must be tackled by the Government of the Federal Republic. The disastrous consequence of the evil practice of corruption has taken this nation into the list of the most corrupt nations on earth.*¹³

Eradication of corruption has been a major preoccupation of successive governments in Nigeria since independence. Despite this, corruption continues to increase both in volume and sophistication. Recently, Nigerian shift attention to the judiciary system which is the third arm of government comprising the judges, magistrates and other supporting staff to provide the necessary leadership in the fight against corruption.¹⁴ The Judiciary is saddled with the responsibility of enforcing the fundamental right to life,¹⁵ right to dignity of human person,¹⁶ right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, conscience and religion, judicial review of government actions, development of a body of Nigerian law; promotion of constitutional democracy and political governance¹⁷ and the fight against corruption.¹⁸ Sadly, the Nigerian judiciary system are amongst the major beneficiaries of the ill-gotten wealth of corrupt practices and had continuously smile to the banks with their share of the loot albeit sacrificing professional ethics.¹⁹ Findings revealed that an estimated N9.4 billion was exchanged in a bribe for judgement in Nigeria's judiciary sector between 2018 and 2020.²⁰

Wabara (2005). The then Speaker of the House of Representatives, Salisu Buhari was also removed as Speaker, prosecuted and convicted on the allegation of forgery. See *C.O.P v Salisu Buhari* (2000) FWLR (pt. 1) p164.

¹³ Per Uthman Mohammed, J.S.C. at p.1122

¹⁴ Adeleke, F.A.R., Lawal, B. and Olayanju, O. (2013). The Role of the Judiciary in Combating Corruption: Aiding and Inhibiting Factors in Nigeria” in Abdulqadir, I.A. et.al (eds.) *Corruption and National Development: Proceedings of the 46th Annual Conference of the Nigerian Association of Law Teachers*, p.293.

¹⁵ M I Sarwar. ‘Corruption: The Role of The Judiciary’, *The Journal of the Malaysian Bar*, (2004); XXXIII, no. 1: 1-13.

¹⁶ Tor, G “The Role of the Judiciary in National Development: The Nigerian Perspective”. *NJI Law Journal*, (2010) 3, p.119

¹⁷ Shikyil S.S “Judiciary Under the 1999 Constitution of the Federal Republic of Nigeria” in Ibidapo-obe, A. and Yerima, T.F. (eds.). *Law, justice and Good Governance*. Faculty of Law, University of Ado-Ekiti. 2003, P.267

¹⁸ I.O. Babatunde, and A.O. Filani, “Corruption in Nigerian Courts: Fashioning the Way Out Through Legal and Institutional Mechanisms”. *Journal of Law and Global Policy*. (2017). Vol. 3 No. 1. P7

¹⁹ Recently, a prominent Nigerian Lawyer, Rickey Tarfa (SAN) was arraigned before a Lagos High Court on charges of bribing a judge. While the learned silk is pressured innocent until the contrary is proven, he was also reported to have said that N225, 000:00 was donated to the judge's father in-law's funeral and not bribe parse.

²⁰ Independence Corrupt Practices and Other Related Offences Commission (ICPC). *Nigerian Corruption Index: Report of a pilot study. Premium Times Newspaper*. December 26, 2020.

Judicial corruption is an acts or omissions that constitute the use of public authority for the private benefit of judges, magistrates and other supporting staff of the courts that result in the improper and unfair delivery of judicial decisions.²¹ It is therefore worrisome to note that the Nigerian judiciary system has not lived up to expectation in fighting corruption.²² In view of the need to eradicate corruption in Nigeria, this study examines corruption in Nigerian judiciary system, causes, implications and recommend measures to curb judicial corruption during economic comatose.

Causes of Corrupt Practices in Nigerian Judiciary System

Causes of corrupt practices in Nigerian judiciary system could be traced to the following factors:

- 1. Manipulating adjudication process by external bodies:** Besides displays of brute force, Nigerians, especially the executive and influential individuals, impede the search for a fair trial by manipulating the judiciary. Top government officials have little or no respect for the concept of separation of powers. Hence, employ every available means at their disposal to induce judicial officers to compromise the course of justice delivery in their favour despite reassurances of no interference from the President.²³ Governments, especially state governments, use various techniques to manipulate the judiciary including the extreme case of offering gratification to judges.²⁴
- 2. Insufficient salaries and welfare package:** Insufficient salaries, lack of welfare packages and delays in payment of salaries are compelling for judiciary personnel to demand bribe to take care of their needs. Some States owe staff salaries for months and still expect them to discharge their duty effectively.²⁵ A poorly funded judiciary may not be free from political influence.²⁶

²¹ I.O. Babatunde, and A.O. Filani, ‘Corruption in Nigerian Courts: Fashioning the Way Out Through Legal and Institutional Mechanisms’. *Journal of Law and Global Policy*. (2017). Vol. 3 No. 1. P7

²² Tor, G (2010) ‘The Role of the Judiciary in National Development: The Nigerian Perspective’. *NJI Law Journal*. Vol.3, p.119

²³ President Obasanjo, in an address to the 1999 All Nigeria Judges’ Conference, reiterated his administration’s commitment to allow the judiciary to function without interference from the executive: ‘It is necessary to assure you that you will not come under the influence of the Executive and that your judgements and orders shall be obeyed.’ Obasanjo, supra note 41, at xxxviii

²⁴ NWABUEZE, supra note 133, at 443–45.

²⁵ P.O. Aderemi, ‘The Role of a Judge in the Administration of Justice in Nigeria’ in Yakubu, J.A (ed.) *Administration of Justice in Nigeria. Essays in Honour of Hon. Justice Muhammadu Lawal Uwais*. Lagos: Malthouse Press Limited, 2000, p.79 at p.81

²⁶ Y.O. Ali, ‘The Evolution of an Ideal Nigerian Judiciary in the New Millennium. *The Nigerian Bar Journal*. 2001, pp.39-56

- 3. Politicization of appointment:** The mode of appointment and promotion of judiciary personnel in Nigeria today is based on nepotism, ethnicity and lack of merit.²⁷ In Nigeria, the appointment of Chief Justice, the Justices of the Supreme Court, President of the Court of Appeal, Justices of the Court of Appeal, Chief Judge of the Federal High Court and Judges of the Federal High Court, Chief Judge of the Federal Capital territory is done by Nigerian President on the recommendation of the National Judicial Council and subject to confirmation by the Senate.²⁸ In the same vein, the Chief Judge of each State and Judges are appointed by the Governor on the recommendation of the National Judicial Council and subject to confirmation by the State House of Assembly.²⁹ Consequently, where the appointment of Judges is done by the Executive, Judges owe their appointment and loyalty to the Executive. Hence, Nigerian judiciary personnel who want to become judges lean more to the party that controls appointment in order to get appointed which in most cases leads to compromise and corruption.^{30,31}
- 4. Inadequate Information and Communication Management facilities:** The inadequacy of ICT facilities to keep records of judgement has made it easy for corruption behavior to be carried out unnoticed. The court personnel manipulate the judgement of the court through conventional processes and make sure the right person is punished while the guilty person goes unpunished through bribery.³² Some government establishments where law officers discharged their duties are either without ICT facilities, no libraries or libraries with outdated books, no law reports or journals.³³ Some judiciary personnel bear the responsibility of making their offices habitable and conducive by compromising for money or gift items. Hence, any judicial personnel working under these conditions cannot be expected to fight corruption.
- 5. Inadequate monitoring system:** Complex procedural rules is one of the ways the judiciary personnel used to hide the judiciary decision due to lack of comprehensive and updated database which gives room to preferential treatment, nepotism, embezzlement.³⁶ There is no body or agency saddled with the responsibility of monitoring the personal interest of judges

²⁷ I.A. Gafar and I.O. Samuel. "Perception of judicial corruption: assessing its implications for democratic consolidation and sustainable development in Nigeria. *Journal of Sustainable Development in Africa*. 2014), Vol. 16 No.2. p.75

²⁸ Sections 231 and 238 of the Constitution, 1999 as amended

²⁹ Sections 250 and 271 Ibid

³⁰ Oyeboode, A. (1992) "Is the Judiciary Still the Last Hope of the Common Man?" Being a paper presented to the Nigerian Bar Association Conference in Port-Harcourt. See also, Oragbon, S.I (2006) "Mode of Selection of Judges Prone to Abuse" in Yusuf F.A.O (ed.) Op.cit. p.188 at 192

³¹ NwosuUchechukwu Wilson, the impact of corruption in the administration of justice in Nigeria. *Journal of good governance and sustainable development in Africa*. Vol 4, No 1, April 2018.

³² Umoatan, D.U (2020). Curbing indiscipline and corruption in the Nigerian judiciary system through tupocracy.

³³ Jimoh, M. A. (2020). Advancing Online Dispute Resolution in Nigeria: Current Opportunities, Legal Challenges and the Ways Forward. *Journal of Sustainable Development Law and Policy (The)*, 11(2), 407-431.

in matters before them and personal communication between the counsel and the judge(s).³⁴ The press is not given enough freedom to investigate cases. Hence, the courtrooms are close to the press to avoid the spread of the news to the public and this has become a machinery for judiciary personnel to carry out evil acts of manipulate the case list in courts.³⁶

Implications of Judiciary Corruption During Economic Comatose

One major challenge to Nigerian search for economic development as well as efficient and productive utilization of available resources is pervasive corrupt practice.³⁵ The implications of judiciary corruption during economic comatose are as follows:

- 1. Lack of Confidence in the Judiciary:** Despite the constitutional provision framework, the working of the judiciary is susceptible to the political class and influential members of the society that has the power to influence court decisions. In this case, the judiciary becomes a means to satisfy the political class where they are directly or indirectly involved. Hence, the Nigerian society is always faced with a dilemma of whether to accept courts verdict, resign to fate or forgo their efforts to get justice through the courts.⁴² The perplexed situation has often led to brutal forms of retribution and vengeance, including gang and mob killings, raping, kidnapping, ethnic militias and weak judiciary incapable of discharging its critical responsibilities to the society, especially to the poor and vulnerable. The public confidence in courts, judges, laws and lawyers have been largely eroded due to political influence on judiciary system.^{36,37,38}
- 2. Poverty and Indebtedness:** The impact of insufficient salaries and welfare packages for judicial personnel result in judges compromising ethical and accountability standard by demanding for bribe from government and the society. Judicial corruption aid government officials wriggle out of various suits against them in the court of law, depriving citizens access to justice, reduce productive activities, particularly those with greater potential for disputes, thereby re-enforcing poverty among them.³⁹ This has manifested in the draining of Nigerian domestic and foreign reserves and the borrowing of more money from other

³⁴Hammad A (2020). Corruption within the Nigerian Judiciary: causes and solution. Retrieved from www.nigerianbar.com/2020/06corruption-within-the-Nigerian-Judiciary-causes-and-solution

³⁵ See Alegeh A.O., "The Role of Law Officers in the Fight against Corruption", Being a paper presented at the 1st Annual National Conference of the Law Officers Association of Nigeria (LOAN), at Olusegun Obasanjo Auditorium, Federal Ministry of Justice Abuja, on the 16th of November 2015, p.2.

³⁶ Abdulkarim, Y. Socio-Economic Effects of Judicial Corruption in Nigeria. *International Journal of Humanities and Social Science Invention*, (2012)1 (1), 31-36.

³⁷ Nigerian supreme court judge charged with corruption, retrieved from <https://www.bbc.com/amp/news/world-africa-38053755> (last accessed on 27th of May 2022)

³⁸ ICYMI: judge arrested for alleged demand of N200m bribe, retrieved from <https://punchng.com/judge-arrested-for-alleged-demand-for-N200M-bribe/%3famp=1> (last accessed on 27th of May 2022)

³⁹ Gafar I. A and Samuel I. O. Perception of judicial corruption: assessing its implications for democratic consolidation and sustainable development in Nigeria. *Journal of Sustainable Development in Africa*. (2014)16(2) p.75

countries which often times render the Nigerian government and society bankrupt and create the problem of unemployment and limited resources to carry out developmental projects or run government.³⁸

- 3. Poor Productivity and Inability to Control Crime:** The mode of appointment and promotion of judiciary personnel in Nigeria today is based on nepotism, ethnicity and lack of merit.⁴² As such, judiciary personnel lack the boldness to control or prosecute the appointers thus leading to undermining of the legitimacy of judiciary which leads to multiplication of corrupt practices that cannot be checked and of course a consequent poor external image of the country.
- 4. Poor Information and Communication Management System:** The judicial process essentially entails various levels of information gathering and communication and the conventional practices and procedures are prone to causing undue delay in justice dispensation. The conventional method of justice delivery in Nigerian courts is cumbersome and time consuming. This is because; all the court processes are filed and served on papers. The case lists and other register books of the court are placed in the clerk's offices which makes it easier to tamper with some vital documents that can be fatal to the smooth administration of justice.
- 5. Threats to National Security:** Complex procedural rules is one of the ways the judiciary personnel used to deliver judgement due to lack of comprehensive and updated database.³⁶ Compromised judiciary personnel can do little or nothing to protect lives and properties of citizens. When crimes are not convicted as a result of corruption in the judicial system, the economy is affected adversely. The interest of those involved in the corrupt practices is made to over-ride those of the public. This in turn brings frustration and deprivation to the citizens and ultimately leads to all manner of agitations among the citizenry.

Strategies to Eradicate Judicial Corruption in Nigeria

In view of the obvious negative impact of corruption in the Judiciary system in Nigeria, and the urgent need to combat the menace, the following recommendations are advanced:

- 1. Effective judicial autonomy:** The independence of the judiciary should be granted to avoid unnecessary influence from the executive and influential members of the society.
- 2. Effective disciplinary measures:** The National Judicial Council should set up measures to severely discipline any judicial officer found guilty of corrupt practices to serve as deterrent to others.
- 3. Improved salaries and welfare packages:** The Nigerian government should ensure that the judicial personnel are adequately remunerated via a viable pay structure to reduce the craves for money and welfare packages which have become the bane of the judiciary.
- 4. Transparency in appointment and promotion procedures:** Appointment of judges should follow due process and not politicized by the executive. Where appointment and promotion are removed from the hands of the executive, the Judiciary becomes more fortified with power to determine cases before them without any fear or favour. Israel strategy may be

adopted, where judges are appointed and promoted by the nine members of Judicial Appointments and Promotion Statutory Committee. The Committee consists of the three branches of Government and the Bar Association. The names of the candidates are published before selection and a successful candidate must have gained the support of three quarters of the selection committee.⁴⁰

- 5. Provision of adequate ICT facilities:** Provision of adequate information and communication management system that makes cases available and accessible to the public anytime will foster transparency in the judiciary system. Risks such as loss of documents, cases of missing files and archives destruction can be significantly reduced or eliminated. Hence, eliminating expensive and expansive storage spaces.
- 6. Effective monitoring system:** Judicial personnel should be made to verifiably declare their assets before and after their appointment to establish transparency devoid of corruption. Security agencies such as the EFCC, ICPC, DSS and the Police should be more committed to monitoring the lifestyle, finances and excesses of the judicial officers to ensure they do not live above their means.
- 7. Declaration of Asset:** Legislation should be put in place to ensure all judiciary personnel declare their asset on yearly basis. The legislation should prevent Judiciary personnel from operating foreign account and transaction with foreign currency except with clearance by a monitoring ministry or agency.
- 8. Educational enlightenment:** Interrogation of educational institutions curriculum to enlighten the students on the consequences of corruption and the legal implications. Tertiary institutions should ensure that students sign anti-corruption agreement with disciplinary actions against violators clearly spelt out before admission.

Conclusion

Corruption has become an anomaly in Nigeria judiciary system. Its consequences include poverty and indebtedness, poor productivity and inability to Control Crime, poor information and communication management, threats to national security and lack of confidence in the judiciary. Strengthening judiciary system through reforms are strategies to curb corruption in the Nigerian judiciary. To achieve this, government should grant judiciary autonomy, improve salaries and welfare package for judiciary staff, appoint and promote staff on merit, provide adequate ICT facilities and monitor the activities of staff for transparency in the administration of justice. It is under this atmosphere that the judiciary will be able to discharge its duties of combating corruption without fear or favour.

⁴⁰ Eli S. (2005). Judicial Appointments and Promotions in Israel –Constitution, Law and Politics in Kate Malleson and Peter Russel (eds.) *Appointing Judges in the Age of Judicial Power: Critical Perspectives*. Toronto University Press, p.89.