

Corruption in Nigerian Courts: Fashioning the Way Out Through Legal and Institutional Mechanisms

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Abstract

The judiciary, which is the third arm of government is perceived by the generality of the people as the last hope of the masses. It is expected to dispense justice without fear, favour or in defiance to whose ox is gored. However, where this last hope is infested with corruption, the last hope of the common man is dashed. This paper appraised the Nigerian judiciary vis –a-vis the attendant corruption of some of its members. The judiciary has a large role to play in the successful administration of justice in a given polity. To achieve this, it must be fearless, just and fair in the determination of cases before it. The paper found that some members of the Nigerian judiciary fell short of this confidence reposed in them by being corrupt and this has whittled down effective administration of justice in Nigeria. The paper concluded that a corrupt free judiciary is an antidote to a fair and just society.

Key Words: Judiciary, Corruption, Justice, Nigeria. Courts, Law

Introduction

Corrupt practices among the people or groups predate the arrival of the colonial masters in Nigeria and the incidence of corrupt practices remained unchecked during the colonial administration.¹The level of increase in corrupt practices in Nigeria was one of the major factors responsible for the collapse of the first republic.² Corruption is an issue of concern to well-meaning Nigerians. In fact, it is about the most practiced vice.³ Nigeria as a nation has been rated as one of the most corrupt countries in the world.⁴ Several reputable Nigerians suffer a number of damages as cheats and the erosion of trust in our domestic and international spheres.⁵

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¹ Forest, T. (1906) *Politics and Economic Development in Nigeria*. West View Press, p.32, Tignor, R. (1993) "Political Corruption in Nigeria Before Independence" *Journal of Modern African Studies*, p.175

² See Ijalaye, D.A (2008) "Corruption in the Public Service of Nigeria: A Nation's Albatross" Being the 3rd Fellow's Lecture of the Nigerian Institute of Advanced Legal Studies delivered on the 3rd of July, 2008 at p.20

³ Keynote Address by Ayoola Emmanuel, former Chairman of the Independent Corrupt Practices Commission delivered on the 3rd Chief Gani Fawehinmi Annual Lecture/Symposium. *Fawehinmi: Corruption and the Survival of the Nigerian Nation* organised by the Nigerian Bar Association, Ikeja Branch on the 15th of January, 2007. See also, *Nigerian Bar Association (2007) Fawehinmiism: Corruption and the Survival of the Nigerian Nation*. Lagos: Nigerian Law Publications Limited, p.13.

⁴ See Report of the Transparency International, 2013: See also, Babatunde, I.O.(2014) "Stamping Corruption out of our system: The Impact of National and International Legislations on Corruption Control in Nigeria" *Journal of Law, Policy and Globalization*, Vol.23, p.101

⁵ Ribadu, N. (2004) "Obstacles to Effective Prosecution of Corrupt Practice and Financial Crimes Cases in Nigeria" being a paper presented at the Stakeholders Summit on Corrupt Practices and Financial Crimes in Nigeria organised

In Nigeria today, nobody trusts anybody and every Nigerian is treated with circumspect. Many people who condemn corruption also practice it secretly.⁶ The judiciary is equally enmeshed in corrupt practices. Oputa JSC (as he then was) openly agreed that the issue of corruption is a virus which has affected not only the judiciary but all aspects of the Nigerian society.⁷ The Supreme Court in *A.G Ondo State v A.G Federation*⁸ held that:

*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.*⁹

It is worrisome to note that the Nigerian judiciary has not lived up to expectation as far as fighting corruption is concerned. The Nigerian courts have been accused of corruption. This paper therefore seeks to discuss holistically corruption in Nigerian courts and fashion the way out through legal and institutional mechanisms.

Concept of Corruption

The attempt at providing a generally acceptable definition of corruption will be an exercise in futility because there is a plethora of definitions on corruption and everybody is defining it from partisan point of view.¹⁰

Corruption is derived from the Latin word “*corruptus*” which means to abuse or destroy. From this angle, corruption “is a state of being or becoming decayed, spoiling or deteriorating”.¹¹ *The Concise Oxford Dictionary* defines corruption as the “process of decay.”¹² Lexicographically, corruption is derived from the adjective “corrupt” which means the willingness “to act dishonestly in return for money or personal gain...evil or morally deprived.”¹³ *Blacks’ Law Dictionary* defines 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.*¹⁴

Kuta defines corruption as:

by the House of Representatives Committee on Anti-Corruption, National Ethics and Values at the International Conference Center, between 23rd and 25th November.

⁶ 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 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.

⁷Oputa, C. (1996) “Judiciary and Corruption.” *National Concord*, Thursday, July 19, pp.9-10

⁸ (2002) 10 NSCQR p.1034

⁹ Per Uthman Mohammed, J.S.C. at p.1122

¹⁰Chukwunonso, O. Olorunfemi, J. *et al* (2013) “Analysing the Effectiveness of Relevant Laws and Crime Control Theories in the Fight Against Corruption in Nigeria”. Being a paper delivered at the 46th Annual Conference of the National Association of Law Teachers Conference held at the University of Ilorin, Ilorin, Nigeria between April 24-26, 2013 at p.3

¹¹Alle, J.G *et al* (eds.) (1981) *The New Webster’s Dictionary of the English Language*, International Edition, p.219.

¹² Fowler, H.W. *et al* (eds.) (2008) *The Concise Oxford English Dictionary*, 11th Edition, Oxford University Press, p.322

¹³*Op cit.* at p.321. This undoubtedly is a very narrow way of defining corruption. See Babatunde, I.O *Op cit* at p.101

¹⁴ Garner, B.A (ed.) (1999) *Black’s Law Dictionary*, 7th Edition (St. Minnesota West Group) p.348

...the diversion of natural course of events, with a view to conferring undue advantage on individual or a group of individuals. It is an action or inaction which gives advantages or bestows favour on a person that he or she is not legally or morally entitled to. It is an abuse of all offices of trust for private gains whether in public or private sector. It is any form of illegal self-enrichment or the conferment of same on any individual to the detriment of the society. It is synonymous with moral decay, uncleanness, want of character and value deterioration.¹⁵

Corruption is defined by the World Bank 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.¹⁶

The independent Corrupt Practices Commission Act defines corruption to include bribery, fraud and other related offences.¹⁷ The United Nations Convention Against Corruption 2003 does not define corruption but only describes corrupt practices.¹⁸ The Criminal Code creates offences of corruption by public officials,¹⁹ while the Penal Code creates offences of corruption by public servant.²⁰

The court in *Biobaku v Police*²¹ defines corruption as the receiving of or offering of some benefit as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his duties.²² Corruption, therefore, can be seen as an abuse of forum, that is, a person who has the responsibility to render service of a particular position takes advantage of his position to be corrupt. The symptoms of corruption in Nigeria are bribery, abuse of office, nepotism and unjust enrichment.²³

¹⁵ Kuta, D.A “The Legislature and Nigeria’s Anti-Corruption War” at <http://www.tribune.com.ng/index.php/politics/12351-the-legislature-and-nigeria's-anti-corruption-war>. Accessed on 15th March, 2014.

¹⁶ World Bank “Helping Countries Combat Corruption: The Role of the World Bank” at <http://www.worldbank.org/publicsector/anticorrupt/corruption/coro2.tm>. Accessed on March 15th, 2014. See also, Nye, J.S (1967) “Corruption and Political Development: A Case Benefit Analysis” *The American Political Science Review* pp.417-427

¹⁷ Section 2, Independent Corrupt Practices Commission Act, 2004

¹⁸ Articles 21-25 of the United Nations Convention Against Corruption, 2003 identify bribery, embezzlement money laundering, concealment and obstruction of justice as various acts of corruption.

¹⁹ Section 98, Criminal Code, Cap. C38, Laws of the Federation of Nigeria, 2004.

²⁰Section 115 of the Penal Code, Cap. P.3, Laws of the Federation of Nigeria, 2004 applicable in the Northern Nigeria.

²¹ (1939) 20 NLR, p.30

²²Oyebode, A. (2001) “AN Overview of Corruption in Nigeria” in Ayua, I.A and Guobadia, A.(eds.) *Political Reforms and Economic Recovery in Nigeria*. Lagos NIALS p.603

²³*Ibid*

Types of Corruption

There are different categories or types of corruption. The United Nations Office on Drugs and Crimes identified two types of corruption – Grand and Petty Corruption.²⁴ Grand corruption is the one that pervades the highest levels of a national government leading to broad erosion of confidence in good governance, rule of law and economic stability. Petty corruption involves the exchange of very small amounts of money, the granting of minor favour by those seeking preferential treatment or the employment of friends and relatives in minor positions.²⁵

Corruption can also be active or passive. Active corruption refers to the giving of bribe while passive corruption entails receiving of bribe.²⁶ We also have public corruption and private corruption. The Economic and Financial Crimes Commission arrested many public officers for abuse of office and corruption.²⁷ Employees in the organised private sector of the economy have to “cooperate” or “play ball” or “settle”²⁸ with persons at the helm of affairs in some organisations in order to get any business from them.

Without prejudice to the above types of corruption, the following categories of corruption have been recognised in Nigeria. They are, judicial corruption, economic corruption, corruption in the Executive arm of Government, corruption in the Legislature, moral corruption and corruption by non-profit associations or non-governmental organisations (NGO).²⁹ Similarly, corruption is evident and even endemic in the educational and religious sectors of the polity.³⁰

Causes of Corruption

Certain factors have been adduced as either causing or contributing to corruption. Some of the major causes of corruption are:

1. **Weak Enforcement Systems:** People tend to commit crimes if the chances of getting away with the offences are more than the chances of getting caught. Where the possibility of being caught is remote then the temptation of committing it increases. The ineffectiveness of judicial process can be effectively located here.³¹
2. **Unemployment:** with the discovery of oil in commercial quantity in Nigeria, the urge for white collar jobs increased. Hence, the huge migration of people to the urban areas for greener pastures.³² Unfortunately, there are not enough jobs to meet the growing working

²⁴ United Nations Office on Drugs and Crime (2004) *The Global Programme Against Corruption: UN Anti-Corruption Toolkit*, 3rd Edition, p.1

²⁵ United Nations Office on Drugs and Crime. *Op cit* p2. Also, Akanbi Mustapha while answering question on Nigerian Television Authority (A.M Express) on 23rd August, 2004.

²⁶ Rose-Ackerman. S. (1996) “Democracy and Grand Corruption” UNESCO (1551 149/1996) reprinted in Williams, R. (ed.) (2000) *Explaining Corruption* Elgar Reference Collection, U.K pp.321-336. See also, the *Global Programme Against Corruption Op cit*, p.2

²⁷ Francisco, E (2009) “Arrest, Detention and Trial of Public Officers: The Nigerian Experience” in Azinge, E, Bolaji, O (eds.) *Rule of Law and Good Governance*. Abuja: NIALS p.149

²⁸ They are used sarcastically to mean offering of bribe to an officer before performing official duty. See also, Ijalaye, D.A. (2008) “Corruption in the Public Service of Nigeria.” A Nation’s Albatross” being the 3rd Fellows Lecture of the Nigerian Institute of Advanced Legal Studies delivered on the 3rd of July, 2008 at p.3

²⁹ Zero Corruption coalition (2005) (Anti-Corruption League Forum) “Critical Issues in the Fight Against Corruption in Nigeria p.17 (Unpublished)

³⁰ Ijalaye D.A. (2008) “Corruption in the Public Service of Nigeria: A Nation’s Albatross” *Op cit* at p.11

³¹ Adeyemi, A.A (2011) “Corruption, Governance and Democracy”. Paper presented at the 44th Annual Conference of the Nigerian Association of Law Teachers on *Law, Peace and Development*, hosted by the Faculty of Law, Rivers State University of Science and Technology, Port-Harcourt, 17-21 July, 2011 at p.23

³² Adeyemi, A.A. *ibid*

population of the country. This led many people, especially youths to engage in fraud scams.

3. **Inadequate Motivation:** Many workers experience inadequate remuneration and unconducive work environment. Some workers personally bear the responsibility of making their offices habitable and conducive.³³

Other causes of corruption are high cost of living³⁴ culture of greed and wrong values,³⁵ get rich quick syndrome,³⁶ lack of social security,³⁷ high taste of living not commensurable with ones' income,³⁸ saving-for-rainy-day syndrome,³⁹ large/extended family,⁴⁰ great inequality in the distribution of wealth,⁴¹ and high cost of election. The above cause of corruption lend credence to the fact that corruption has many causes. According to Seldman:

*...there is no single cause of corrupt motivation, it exists in a wide variety of circumstances. The pressures pointing towards corruption are many and varied.*⁴²

Effects of Corruption

It is an indisputable fact that Nigeria's political and economic challenges are aggravated by corruption. Corruption brings about lack of good governance. Ordinarily, security and welfare of the people should be the primary purpose of government.⁴³ Billions of naira are diverted every year by Nigerian Political leaders to their private pockets.⁴⁴ Corruption brings about lack of

³³Ijalaye, D.A. *Op cit* at p.40. See also, "The Proceedings of the National Conference on Human Rights and the Administration of Criminal Justice" held at the Nigerian Institute of Advanced Legal Studies, Lagos between 17th and 18th September, 1990, p.18.

³⁴Bello, M.F *et al* (1999) "Corruption and Development in Nigeria: Issues, Challenges and Prospects". *International Journal of Social Sciences and Humanities Review*, Vol. 2, No. 2, p. 171

³⁵Chukwumeze, U.U (2005) "Law, Corruption and Socio-Economic Development in Nigeria" being a paper delivered at the Abia State University, Uturu on 20th, July. The guardian Editorial Opinion of Saturday, March 19, 1988 reads thus: "Politicians jailed for criminal embezzlement of public funds are, on being released from prison, received as conquering heroes by the very people they have robbed..." See further, Aligba, A. (2013) "A Critical Appraisal of the Fight Against Corruption 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.129

³⁶Alubo, A (2010) "An Appraisal of the Roles of the EFCC and the ICPC in Combating Corruption" *University of Jos Law Journal*, vol.9, No.2 at p.77

³⁷Nwabueze, B.O (1989) "Social Security in Nigeria" Being the 10th Anniversary Lecture of the Nigerian Institute of Advanced Legal Studies, Lagos, delivered on the 7th September.

³⁸*Mogaji v Nigerian Army (2008) 8 NWLR (pt.1089) p.338 at p378, paras A-D*

³⁹Nwabueze, B.O *op cit*, at p.5

⁴⁰Andreski, S. (1968) *The African Predicament: A Study in the Pathology of Modernisation*. London; university of California Press p.102

⁴¹Hassan, B.A and Amadi, J. (2009) *Crime and the Criminal Justice System in Nigeria*.Port-Harcourt: Pearl Publishers, p.208

⁴²Seldman, R (1974) "Corruption: A case Study in Deviance" in *Source Book of Ethiopian Law and Development* Paul Brietzka p.264.

⁴³Section 14(2) (b) of the Constitution of the Federal Republic of Nigeria, 1999 as amended

⁴⁴Adewale, Y.D (2007) "Nigeria and the Challenge of Democratic Consolidation: The Fourth Republic Experience" *African Journal of International Affairs and Development*, p.35. See also, Oshiomhole, A. (2006) "Corruption and Crisis of Governance in Nigeria". Being a lecture delivered in honour of Professor G.A Olawonyin under the auspices of the Justice Chambers at O.A.U on 2ndFebruary, 2006 at p.9-10, Adedeji. O. (1990) "Nigerian Political Office Holder's Cold Attitude to Public Accountability During the Second Republic: Impact on National Economy". Being Chapter 27 of *Readings on the Political Economy*. Bamisaye, O. (ed.) p.503 and Joan, O.O (2012) "From Rule of Law to Rule of Love: Towards Plato's Ideal State-City of God" *African Research Review*,vol.6, No.27 at p.12.

development. It is one of the causes of poverty in Nigeria.⁴⁵ Another effect of corruption is that it reduces government revenue. If government revenue is reduced, developmental projects cannot take place.⁴⁶ The scandals involving political leaders, Ministers, Governors and top public servants send negative signals to the outside world which is capable of tarnishing the nation's reputation.⁴⁷

Anti-Corruption Statutes in Nigeria

There are international and local instruments for fighting corruption in Nigeria. Some of the local instruments enacted to fight corruption are Criminal Code, Penal Code, Banks and Other Financial Institution Act,⁴⁸ the Failed Banks (Recovery of Debts) and Financial Malpractices Act,⁴⁹ Advanced Fee Fraud and Other Related Offences Act⁵⁰ and Money Laundering (Prohibition) Repeal and Re-enactment Act, 2011.

Other statutes are Dishonored Cheque (Offences) Act,⁵¹ The Central Bank Act,⁵² The Public Procurement Act,⁵³ The Nigerian Freedom of Information Act, 2011,⁵⁴ the Code of Conduct Bureau and Tribunal Act,⁵⁵ Corrupt Practices and Other Related Offences Act, 2004 and the Economic and Financial Crimes Commission Act.⁵⁶ Notwithstanding these numerous statutes, corruption has been on the increase in Nigeria.

Anti-Corruption Institutions in Nigeria

The institutions involved in the anti-corruption crusade in Nigeria include the Judiciary, the Legislature, the Police, the Nigerian Customs Service, Code of Conduct Bureau, the National Food and Drug Administration and Control (NAFDAC), National Drug Law Enforcement Agency (NDLEA), Standard Organisation of Nigeria (SON), Budget Monitoring and Price

⁴⁵Adeyemi, A.A (2007) "National Crime Prevention Strategy". Prepared for the Federal Government of Nigeria with the sponsorship of DFID's Security, Justice and Growth Programme at p.15. See also Tanzi, V. (1995) "Corruptions, Government's Activities and Markets" in Granduca, F. and Sao, P. (eds.) *The Economics of Organised Crime*. Cambridge: Cambridge University Press, p.14 and Tanzi, V. and Davood, I. (1997) "Corruption, Public Investment and Growth". The International Monetary Funds. Washington DC. P.10

⁴⁶Akinseye-George, Y (2000) *Legal System, Corruption and Governance in Nigeria*. Lagos: New Century Law Publishers Limited, p.47. See also, Micksell, J. (ed.) (1997) *Fiscal Administration: Analysis and Application for the Public Sector*. New York; Wasworth Publishing, p.28.

⁴⁷ Cap 3, Laws of the Federation of Nigeria, 2004

⁴⁸ Cap M17, Laws of the Federation of Nigeria. For a detailed study, see Akomolede, T.I. *et.al* (2013) "The Independence of Anti-Corruption Agencies in Nigeria: Possibilities and Challenges" 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.186 at 190 -192, Chukwumaeze, U.U., Okorie, C.K. and Chinweze, C.E. (2013) "A Critique of the Fight Against Corruption in Nigeria" *Op.cit.* p.205

⁴⁹ Cap. F2, Laws of the Federation of Nigeria, 2004.

⁵⁰ Cap A6, Laws of the Federation of Nigeria, 2004.

⁵¹ Cap D11, Laws of the Federation of Nigeria, 2004

⁵² Cap C4, Laws of the Federation of Nigeria

⁵³ No. 14 of 2007

⁵⁴ On the 24th of May, 2011, the Nigerian Senate and House of Representatives passed a harmonized version of the Freedom of Information Bill worked out by the Legislature's Joint Conference Committee. The Presidential Assent was given on the 28th of May, 2011

⁵⁵ Cap C15, Laws of the Federation of Nigeria, 2004.

⁵⁶ Nigeria is also a signatory to some international instruments such as United Nations Convention Against Corruption, 2004, United Nations General-Assembly Model Treaty on Mutual Assistance in Criminal Matters and the United Nations Declaration Against Corruption and Bribery in International Commercial Transaction of 1996.

Intelligence Unit,⁵⁷ National Judicial Council, the Federal Character Commission, the Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC).

As earlier stated the focus of this paper is to examine corruption in Nigerian courts and see how it can be stamped out or reduced to the barest minimum through legal and institutional mechanisms.

The Judiciary

The judiciary is the third arm of government and the last hope of the common man.⁵⁸ As the third arm of government,⁵⁹ the Judiciary is saddled with the organisation, powers and workings of the courts. The judiciary is concerned with its personnel, that is, the judges, magistrates and other supporting staff of the courts. It is the institutional framework for attaining justice.⁶⁰ Nigeria since independence has played a commendable role in the promotion of the rule of law by interpreting and applying the law in order to resolve conflicts between individuals, groups and the government or its agencies.⁶¹

The Judiciary is also saddled with the responsibility of enforcing the fundamental rights of Nigerians. These rights are right to life,⁶² right to dignity of human person,⁶³ right to personal liberty,⁶⁴ right to fair hearing,⁶⁵ right to private and family life,⁶⁶ right to freedom of thought, conscience and religion *etc.*⁶⁷ Other functions include judicial review of government actions,⁶⁸ development of a body of Nigerian law,⁶⁹ promotion of constitutional democracy and political governance.⁷⁰

The Judiciary is also involved in the fight against corruption. Corruption is an integral part of criminal and deviant behaviour.⁷¹ Nigerians look up to the Judiciary to provide the necessary leadership in the fight against corruption.⁷² In view of this important role of

⁵⁷ It is called Due Process which enforces strict adherence to probity in the award and execution of Government Contracts.

⁵⁸ See Babatunde, I.O (2011) "Independence of the Judiciary – A Contemporary Analysis of the Nigerian Experience" *Akunba Law Journal*, p.111 at p.116. See also, section 6 of the 1999 Constitution as amended

⁵⁹ The other arms are legislature and the Executive as provided in sections 4 and 5 of the 1999 Constitution as amended

⁶⁰ See section 6(6), (b) *Ibid*. See also, Tor, G (2010) "The Role of the Judiciary in National Development: The Nigerian Perspective". *NJI Law Journal*, Vol.3, p.119

⁶¹ Obi-Okoye, J. (1988) *Development of Judicial Trial in Nigeria*. Ibadan: Africana F.E.P Publishers Limited, p.13. See also, section 6 of the 1999 Constitution.

⁶² Section 33 *Ibid*

⁶³ Section 34 *Ibid*

⁶⁴ Section 35 *Ibid*

⁶⁵ Section 36 *Ibid*

⁶⁶ Section 37 *Ibid*

⁶⁷ Section 38 *Ibid*

⁶⁸ In this regard, sections 6 and 295 of the Constitution must be read together. See also, Order 40 of the High Court of Ekiti State (Civil Procedure) Rules, 2011.

⁶⁹ In *P.D.P v INEC* (2000) 11 NWLR (pt. 626) at p.200, the Supreme Court interpreted the word "die" as connoting "Disappear, Fizzle out, Evaporate, vanish, Abandon etc.

⁷⁰ Shikyil S.S (2003) "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. P.267

⁷¹ We have several ongoing cases in court on corruption and abuse of office.

⁷² See generally, 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.

combatting corruption, the Judiciary had to start the internal cleansing by putting in place measures to emphasise the importance of ethics, integrity and morality to its workforce as well as taking decisive actions in respect of complaints bordering on corruption.⁷³

The National Judicial Council

Section 153 of the 1999 Constitution establishes the National judicial Council. The National Judicial Council has the power upon the recommendation of the Federal Judicial Service Commission to recommend to the President the removal from office of the Judicial Officer (Federal) specified in paragraph 21(a) of the part 1 of the Third Schedule to the Constitution and to exercise disciplinary control over such officers.⁷⁴

It also has power to recommend to the Governors, the removal from office of the judicial officers specified in sub-paragraph (c) of paragraph 21 and to exercise disciplinary control over such officers.⁷⁵ The National Judicial Council also has power to set up a Committee which carries out the evaluation of the performance of judges.

According to Babalakin:⁷⁶

The setting up of the Committee is reinforced by the reasoning that since the retirement of judicial officers is based on corruption and declining productivity, it behoves the National Judicial Council to have a record of the performance of all judicial officers over a period of time to determine whether their performances are declining or not... another reason for getting up the committee is the outcry by members of the public that there are delays in hearing cases in courts...

It should be noted that the National Judicial Council is a one-man Council – The Chief Justice of Nigeria. Apart from the Deputy Chairman of the Council, the President of the Court of Appeal and the Chief Judge of the Federal High Court,⁷⁷ the Chief Justice of Nigeria appoints all other eighteen members of the Council.⁷⁸ This powerful position of the Chief Justice of Nigeria can be abused. Who will now monitor the National Judicial Council? The reason for this is that eighteen members out of twenty-two members owe their membership and or allegiance to the Chief Justice of Nigeria. It will be difficult to oppose him on crucial matters.

The council itself was accused of corruption when the then President of the Court of Appeal, Isa Salami, accused Katsina-Alu (CJN as he then was) of putting pressure on him to decide an election petition case in Sokoto State in favour of the ruling People's Democratic

⁷³ See Emiri, F., Eimunjeze, F. and Chukwu, A. (2013) "An Economic Analysis of Court-Centre Corruption in Nigeria" in Abdulqadir, I.A. (eds.) *Corruption and National Development: Proceedings of the 46th Annual Conference of the Nigerian Association of Law Teachers*. P.367

⁷⁴ The officers mentioned in paragraph 21(a) are the Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court of the Federal Capital Territory, Abuja, the Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital territory, Abuja.

⁷⁵ The officers mentioned in paragraph 21(c) are the Chief Judges of the States and Judges of the High Courts of the States; the Grand kadis and kadis of the Sharia Court of Appeal of the States and the President and Judges of the Customary Courts of Appeal of the States. It should be noted that the National Judicial Council acted under this provision of the Constitution when it recommended the removal of Justices Bamisile and Aladejana in 2006.

⁷⁶ Babalakin, B.O. (2005) "Evaluation of Judges' Performance: The Role of the National Judicial Council" A conference paper presented at the All Nigerian Judges' Conference in Abuja, Pp. 5-6

⁷⁷ Paragraph 20(b),(c) and (e)

⁷⁸ Paragraph 20 sub-paragraphs (d), (f), (g), (h) and (i)

Party. If these allegations were true, it would be difficult for the National Judicial Council under Katsina-Alu to fight corruption in Nigerian courts.⁷⁹

The Code of Conduct for Judicial Officers

The code of conduct for judicial officers came into effect in 1988.⁸⁰ It states in its preamble that a judicial officer should actively participate in establishing, maintaining, enforcing and himself observing a high standard of conduct. The nature of the task of judicial administration requires that all judicial officers on appointment should subscribe to the Oath of Allegiance and the Judicial Oath.⁸¹ The Code is made up of rules on impropriety, social relationships, adjudicative duties, impartiality, abuse of *ex-parte* orders, fiduciary duty, business and financial activities, acceptance of gifts *etc.* The Code has, to some extent, improved the system of judicial administration in Nigeria.⁸²

The Code of Conduct for Court Employees

Court employees are part of the Judiciary,⁸³ a similar standard expected of judges applies to staff of the courts. To this end, a Code of Conduct came into operation on the 1st of March, 2004 for Court employees.⁸⁴ The Code provides amongst other things:⁸⁵

Whereas an independent, strong, respectable and responsible judiciary is indispensable for the administration of justice in a civilised society... And whereas court employees hold highly visible positions of public trust and it is desirable that a standard of conduct which a court employee should observe be prescribed and published for the information of the court employees and the public in general so that the objectives set out in this preamble would be achieved.

The Code contains rules which serve as guide to the court employees in the performance of their duties. The rules relate to accountability, confidential information, impartiality, abuse of

⁷⁹Soniyi Tobi (2011) "Salami, Katsina-Alu Face-Off Deepens" *This Day*, February 12. P.2

⁸⁰ Just like the Nigerian experience in 2002, a Bangalore Draft of Judicial Conduct, 2001 was adopted for the purpose of establishing standards for ethical conduct of judges in the Hague. Among the ethical values that were adumbrated were independence of the judiciary, impartiality, integrity, propriety and equality. The step was taken by the Ugandan Government by enacting a Code of Conduct for Judges, Magistrates and other Judicial Officers, 1989 of Uganda. The Code has fourteen (14) Rules which judges in Uganda are to follow religiously. In 2012, South African Government established their own law on Code of Judicial Conduct. The South African law composed of 17 articles that centred on impartiality, extra-judicial income, associations, *etc.* For a detailed work on the desirability of the code of conduct for judges, see Azinge, E. and Rapu, J.F. (2002) "Roadmap to Judicial Transformation: Through the Lens of Retired and Serving Jurists of the Supreme Court" in Azinge, E. and Dakas, C.J.D. (eds.) *Judicial Reform and Transformation in Nigeria: A Tribute to Hon Justice Dahiru Musdapher*. Lagos, NIALS, p.1. See also, Alubo, A.O. (2015) "Abuse of Discretion, Violations of Code of Conduct for Judicial Officers and the Disciplinary Rule of the National Judicial Council in Nigeria", Vol. 10, No.2, *University of Jos Law Journal*, p.18

⁸¹See 7th Schedule to the Constitution of the Federal Republic of Nigeria, 1999 as amended.

⁸² See Onum, A.O. (2015) "Performance Evaluation for Judicial Officers: Practical Hints for High Court Judges" Being the text of a paper presented at the National Workshop for Judicial Ethics, Anti-Corruption and Performance Evaluation on the 25th and 26th of May, 2015 at the National Judicial Institute, Abuja.

⁸³See Babatunde I.O. *Op.cit* at p.116

⁸⁴The Code of Conduct for court Employees was produced by Nigerian Stakeholders in the Justice Sector in collaboration with the National Centre for State Courts, a United State Organisation under the auspices of the United States Agencies for International Development (USAID). The Code was adopted by the Board of Governors of the National Judicial Institute on the 1st of March, 2004

⁸⁵Preamble to the Code

position, conflict of interest and comportment. A court employee is not to use or accept to use his position or office to secure unwarranted privileges, gratify or confer any corrupt or unfair advantage upon himself or any relation or associate. The Code provides that breach or violation of any rule in the Code shall constitute gross misconduct and may attract disciplinary action.⁸⁶

The National Judicial Institute

The activities of the Institute provide opportunities for judges and the staff of the courts to discuss common problems and exchange ideas for the overall development of the Judiciary.⁸⁷ The programme of the Institute such as lectures, workshops, seminars and conferences provide opportunities for discussions of what is expected from the Judiciary and the effects of corruption on the Judiciary.

Various Acts of Corruption in the Judiciary

Some of the various acts of corruption in the judiciary are as follows:

i. Indiscriminate Issuance of Ex-Parte Orders

This is an order issued to restrain the defendant from infringing on the plaintiff's right. The injury that will attract the *interim* injunction must be clearly threatened and the injury must be serious in nature.⁸⁸ This is one of the areas in which the Judiciary in Nigeria has received harshest criticism.⁸⁹ Yadudu lamented on the abuse of the court process when he said:⁹⁰

Perhaps encouraged by delays in the process or out of sheer cold calculations, members of the public are worse still, counsel have no qualms engaging in vexatious litigations, which are often condoned by some judicial officers through the non-judicious and the unrestrained entertainment of ex-parte applications and the lavish grant of orders prayed often causing irreparable damage to the party that has not been heard. The use and abuse of ex-parte applications had received a ritual mention at every All-Nigerian Judges Conference. Every new judicial officer is admonished during the induction course organised by the Nigerian Judicial Institute to eschew entertainment of ex-parte motions save for the most compelling reason... Yet it continues to be canvassed for, entertained and liberally granted for the most frivolous, often-serving of reasons.

⁸⁶The disciplinary measure under the Code is without prejudice to the penalty which may be imposed by any law where the breach is also a criminal offence

⁸⁷The National Judicial Institute was established by Decree No. 28 of 1991 (as amended by Decree No. 15 of 1999) now LFN, 2004.

⁸⁸*M.G v Northern Corporation* (1904) I Ch.D. p.563

⁸⁹*Enekwe v IMB Ltd.* (1997) 10 NWLR (pt. 562) p.603

⁹⁰Yadudu, H. (1997) "The Legal Profession: Towards the Year 2010". A lecture delivered during the investiture ceremony of Professors Okonkwo, Ajomo and former Chief Justice Muhammadu Uwais. See also, Akuyobi, O.R (2004) "Interim Injunction in Nigeria: A Panacea of Placebo?" In Ibidapo-Obe, *et-al* (eds.) *International Law, Human Rights and Development*, UNAD, p.404

Courts have often granted *ex-parte* orders in circumstances that, had the adverse party been given the opportunity of being heard, the order might not have been granted.⁹¹ It has also been argued that the hearing of a matter *ex-parte* is a violation of the constitutional rights of the adverse party to a fair hearing.⁹² It violates the legal maxim: *Audi alteram partem*.⁹³ It is also conceded that the grant or refusal of an *ex-parte* application is at the discretion of the court and that the superior courts of record have laid down guidelines for the exercise of such discretion.⁹⁴

In *Badejo v Federal Ministry of Education*,⁹⁵ Kutugi (JSC as he then was) said:

*I think I can safely say now and thanks to the vigorous and educational activities of the National Judicial Institute, that gone are the days of wanton grant of ex-parte injunctions when the operation of a bank was halted by a person who had been removed as a director or when installation ceremony of chiefs were halted by those who had lost and the dispute dragged on for years, or when the convocation ceremony of a university was halted by two students who had failed their examinations.*⁹⁶

ii. *Ex-Parte* Communications

An *ex-parte* communication has been described as any communication outside the presence of or without the knowledge or participation of every person who has a legal interest in a proceeding or that person's lawyer about a pending or impending case by or to the judge presiding in a case.⁹⁷ *Ex-parte* communications are frowned at because they undermine the judges' impartiality for so many reasons. First, during *ex-parte* communication, the judge may receive inaccurate or incomplete information that might easily be corrected if all parties to a case had been present. Second, if the excluded party suspects or learns of the communications, he or she will inevitably feel that his or her opponent gained an advantage regardless of whether the judge was swayed.⁹⁸

For instance, Kunle Kalejaye who represented Oyinlola at the Osun State Governorship Election Petition Tribunal between Aregbesola and Oyinlola was barred from further practising as a lawyer.⁹⁹ The Legal Practitioner Disciplinary Committee barred him after finding him guilty of professional misconduct. Kalejaye was said to have engaged in a private and confidential

⁹¹*Ramoni v Jinadu*(1986) 5 NWLR (pt. 39) p.100. See also, *Association for Better Nigeria v National Electoral Commission*. Unreported Suit No. I/JCM/299/93

⁹²Section 36 of the 1999 Constitution

⁹³See Malemi, E (2008) *Administrative Law*, 3rd Edition. Lagos: Princeton publishers Co. p.206

⁹⁴See *Kotoye v CBN* (1989) 1 NWLR (pt. 98) p.419. See also, Afe, B. (2003) *Injunctions and Enforcement of Orders*. Ibadan: Afe Babalola, p.13

⁹⁵(1996) 8 NWLR (pt. 464) p.15

⁹⁶Per Kutugi at p.41, paras. F-G

⁹⁷Kekere-Ekun, K.M.O (2001) "Legal and Institutional Mechanisms Against Corruption in the Nigerian Judiciary". Being a paper presented at the Zonal Workshop for Magistrates of 1-5 years Post Appointment, Southern Zone organised by the National Judicial Institute on the 24th of September, 2001 at Enugu, p.6

⁹⁸Akuyobi, O.R *Op.cit* at p.8

⁹⁹*Omojola, S. (2015) "Oyinlola's Lawyer Loses Practicing License Over Election Case". The Punch, Friday 2nd of May, P. 13*

telephone conversation with the Chairman of the Osun State Governorship Election Petition tribunal, Justice Thomas Naron without the knowledge of the other party.¹⁰⁰

iii. Acceptance of Gifts

The acceptance of gift is a social and cultural phenomenon in Nigeria.¹⁰¹ Great care must be taken to avoid a situation where the receipt of a gift will give rise to the inference that the impartiality of the judge has been compromised. A judge is not to accept any gifts, favour or loan if the donor is a person whose interests have come or are likely to come before him.¹⁰²

A judicial officer is, however, permitted to accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom, books supplied by publishers on a complimentary basis, scholarship or fellowship awarded on the same terms applied to other applicants and a loan from lending institution in its regular course of business on the same terms generally available to people who are not judicial officers.¹⁰³

Recently, the National Judicial Council barred serving judges from allowing people to write books in their honour or accepting gifts.¹⁰⁴ The National Judicial Council took the decision after a book was presented in honour of the chief Judge of the Federal High Court. It was alleged that Gabriel Igbinedion donated the sum of ₦8 million during the book presentation on the 30th of April, 2015.

Subsequently, Justice Liman of the Federal High Court who was handling Michael Igbinedion's case, son of Gabriel Igbinedion was sentenced to three years imprisonment or ₦3 million fine in lieu of imprisonment and sentenced Michael Igbinedion's assistant to 20 years imprisonment without an option of fine in a ₦25 billion money laundering case. This donation of ₦8 million and the subsequent judgment of the Federal High Court raise ethical question.¹⁰⁵

iv. Failure to Dispose of Cases Expeditiously

Failure to dispose of cases expeditiously can give rise to the inference of corruption where it is perceived that the purpose of the delay is to secure an advantage for one of the parties at the expense of the other. Ordinarily, a litigant is entitled to have his case disposed off with dispatch. In *Chidozie v Omosowan*,¹⁰⁶ the court held that all courts in Nigeria have unfettered discretionary powers to adjourn any proceedings before them in order to do justice in a case. The abuse of

¹⁰⁰*Ibid.* Justice Naron with who he committed the misconduct had since February 20, 2013 been compulsorily retired by the National Judicial Council.

¹⁰¹ Gifts are exchanged during Christmas among friends and relations, gifts are also given to those who are celebrating the burial ceremonies of their parents and aged relations in Nigeria

¹⁰²Oyetibo, T. (2012) "The Role of the Judiciary in Combating Corruption in Nigeria". A paper presented at the Serap Media Roundtable on Magistrate Courts Ethics, Integrity and improving Citizens' Access to Justice. *Premium Times*, 26th September, p.10.

¹⁰³See paragraph F, *Code of Conduct for Judicial Officers of the Federal Republic of Nigeria* (1988) Ibadan: Spectrum Books Limited, pp.10-11

¹⁰⁴Adesomoju, A. (2015) "NJC Bars Judges from Presenting Books, Accepting Gifts". *The Punch*, Thursday, May 21, p.13

¹⁰⁵Adesomoju, A. (2015) "Donations in Honour of Judges Raise Ethical Questions". *The Punch*, Monday, 18th of May, p.83

¹⁰⁶(1999) 1 NWLR (pt.586) p.317 at 320

these discretionary powers of court on issue of adjournment many be misinterpreted by litigants who are always suspecting judicial officers.¹⁰⁷

Independence of the Judiciary

The judicial independence is an integral part of the doctrine of separation of power,¹⁰⁸ The independence of the judiciary means that the judiciary is in a position to maintain the rule of law without fear or favour.¹⁰⁹ Judicial freedom from political and external interference is a condition precedent for the integrity of any judicial system. Every government is duty-bound to respect the independence of the judiciary and pressures or inducements must not be put on judges with a view to deciding cases before them corruptly.¹¹⁰ It is very sad to note that the Nigerian judiciary is not independent because of the under mentioned factors;

i. Appointment of Judicial Staff

The appointment and promotion of judges should not be political.¹¹¹ 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 the president on the recommendation of the National Judicial Council and subject to the confirmation of the Senate.¹¹²

The Chief Judge of each State and Judges are appointed by the Governor on the recommendation of the National Judicial Council and subject to the confirmation of States' House of Assembly.¹¹³ Where the appointment of Judges is done by the Executive, Judges may owe their appointment and loyalty to the appointer. It is very common in Nigeria for people who want to become judges to lean more to the party that controls their States in order to get appointed. All these anomalies have eroded the confidence of the people in the Judiciary.¹¹⁴

ii. Security of Tenure

By virtue of section 292 of the Constitution, a judge shall not be removed from office before his retirement age except in the circumstances enumerated therein.¹¹⁵ With regard to the

¹⁰⁷ Oluwagbami, D.A. (2007) "Impediments to Judicial Administration of Economic and Financial Crimes Commission Act Cases" in Oluduro, O. *et.al* (eds.) *Trends in Nigerian Law: Essays in Honour of DVF Olateru Olagbegi*. Constellation (Nig.) Publishers, p.127 particularly at p.134

¹⁰⁸ Unegbu, M.O. (2013) "Independence of the Judiciary in Nigeria: Myth or Reality or Slouching Towards the Dreamland" *NIJ Law Journal*, p.84. See further, Alagbe, K. (2006) "The Role of an Independent Judiciary in an Emerging Democracy" in Yusuf, F. (ed.) *The Nigerian Judiciary: Perspectives and Profile*. Lagos, FHL Publishers, p.158, Young, A.E. (2006) "The Supreme Court of Nigeria and the United States: Case Study" in Yusuf, F. (ed.) *Op.cit.* p.591.

¹⁰⁹ Oputa, C. (1987) *The Law and Twin Pillars of Justice* (Selected Law Lectures and Papers) Owerri: Government Printers, p.108. See also, Babatunde, I.O (2011) "Independence of the Judiciary- A Contemporary Analysis of the Nigerian Experience" *Akungba Law Journal*, p.119

¹¹⁰ See Alagbe, K. (2006), *ibid*.

¹¹¹ See Declaration A/Res/40/32 of the United Nations Declarations on the Basic Principles on the Independence of the Judiciary, 1985

¹¹² Sections 231 and 238 of the Constitution, 1999 as amended

¹¹³ Sections 250 and 271 *Ibid*

¹¹⁴ 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.

¹¹⁵ By virtue of section 291 of the 1999 Constitution, the optional retirement age of Justices of the Supreme Court and Court of Appeal is 65 years while the Compulsory age is 70 years. For other judges, the ages are 60 and 65 years respectively

Chief Justice of Nigeria, the President of the Court of Appeal, Chief Judge of the Federal High Court, Chief Judge of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory and the President of the Customary Court of Appeal of the Federal Capital Territory, removal can only be done by the president of Nigeria, supported by two-thirds majority of the Senate.¹¹⁶

As a result of corruption in Nigeria, securing a two-thirds majority in the Senate in order to remove a judge is not difficult.¹¹⁷ For instance, the Grand Khadi of the Sharia Court of Appeal of Sokoto State was suddenly removed in 2001.¹¹⁸ In *Anya v A.G Bornu*¹¹⁹, the Bornu State House of Assembly commenced impeachment proceedings against the Chief Judge because of his judgment against the State Government. The Chief Judge was saved by the Court of Appeal which held that unless misconduct was proved before a Tribunal or Court, the House of Assembly could not validly pass a resolution seeking for his removal.

iii. Funding and Conditions of Service

An under-funded Judiciary will be handicapped in performing its role. A judiciary that goes cap in hand to beg for money to run its affairs can never be expected to discharge its duty effectively.¹²⁰ A poorly funded judiciary may not be free from political influence. Nigerian judges are poorly remunerated with result that the best brains in the legal profession are not aspiring to become judges.¹²¹

iv. Corrupt Judicial Officers

Some judges, found guilty of corruption in the discharge of their sacred duties by the National Judicial Council were accordingly punished.¹²² Judicial integrity is a major factor that may and or hinder the exercise of the role of the judiciary in combating corruption.¹²³ This is because judiciary connotes the respect that the citizens have in the decisions of the judiciary.¹²⁴

¹¹⁶See section 292 (1)(a)

¹¹⁷Unhegbu, M.O (2010) *Op.cit* at p.90

¹¹⁸*Ahmed v Sokoto State House of Assembly and Anor (2002)* 15 NWLR (pt. 791) p.539

¹¹⁹Suit No. FCA/K/141/82

¹²⁰Aderemi, P.O (2000) "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, p.79 at p.81

¹²¹Ali, Y.O (2001) "The Evolution of an Ideal Nigerian Judiciary in the New Millennium" *The Nigerian Bar Journal*, pp.39-56

¹²²Joshua, S.A (2014) "The Provisions of the 1999 Constitution of Nigeria on Appointment, Discipline and Removal of Judicial Officers and Implication for an Effective and Independent Judiciary." *Journal of Law, Policy and Globalisation*, Vol.28 p.170 at 172.

¹²³The Chief Justice of Nigeria, Justice Mahmud Mohammed said 64 judges were penalised for unethical conduct between 2009 and 2014. For instance, Justice Nwanosike was retired over falsification of his date of birth, Justice Anka of the High Court of Zamfara State was found guilty by the NJC for receiving bribes, Justice Olotu of the Federal High Court, Port-Harcourt was retired for delivering a judgment in a case, eighteen months after the final address by all the counsel in the suit. This is contrary to section 294 (1) of the Constitution which stipulates that judgment shall be delivered within a period of 90 days. See generally, Onanuga, A. (2015) "Weeding Out Corrupt Judges" *The Nation*, Tuesday, June 30, pp.25-26 and Ikhilae, E. (2015) "NJC Penalised 64 Judges in Five Years". *The Nation*, Thursday, 25th June, p.5. See also, Malami, A. (2016) "Corrupt Judges Will be Prosecuted, Forfeit Assets". *The Punch*, Wednesday, 20th January, p.9.

¹²⁴Osipitan, T (2004) "Safeguarding Judiciary Independence under the 1999 Constitution" in Akinseye-George, Y and Gbadamosi, G. (eds.) *The Pursuit of Justice and Development, Essays in Honour of Hon. Justice Omotayo Onalaja*. Lagos: Diamond Publication Limited, p.10 at p.14

Conclusion and Recommendations

The Executive arm of Government should allow the doctrines of rule of law and separation of powers of the three arms of Government to operate fully. The independence of the judiciary can only be guaranteed where separation of power amongst the three arms of government is in full operation. It is under this atmosphere that the judiciary will be able to discharge its duties of combating corruption and financial crimes without fear or favour.

Appointment of judges should not be politicised. It should not be left in the hands of 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. Nigeria should follow the examples of India and Israel in appointing judges. In India, the power to appoint judges is in the hands of the four most senior judges of the Supreme Court and the Chief Justice known as the Collegium.¹²⁵

In Israel, 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.¹²⁶

Special courts should be established to handle corruption cases. Corruption permeates every sector of our national life. In order to ensure speedy trial of cases, corruption cases should not be handled by the conventional courts. Larmode, former Chairman of the Economic and Financial Crimes Commission once said:

*It is dangerous that a Governor charged over corruption will go to court and obtain an order restraining trial... It is also amazing that a case of corruption brought against a Governor in 2006 would last till 2012 before the Supreme Court would order for retrial.*¹²⁷

Finally, there is a need to have specific criminal procedural rules on corruption as we now have specific provisions in election petitions. Interlocutory objections should be taken together with the substantive suit as in the new Fundamental Rights Enforcement Procedure Rules, 2009.¹²⁸

¹²⁵ Abhinav Chandrachud (2010) “The Insulation of India’s Constitutional Judiciary” *Economic and Political Weekly*, Vol. XLV, No. 13, p.60

¹²⁶ Eli Salzberger (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. See generally, Alubo A.O *et.al* (2013) “Plea Bargain Mechanism in the Judicial Determination of Corruption Cases: A Critical Inter-Jurisdictional Assessment” in Abdulqadir, I.A. *et.al* (eds.) in *Corruption and National Development NALT*, p.235

¹²⁷ Larmode in Keynote Address at the Celebration of the International Anti-Corruption Day in Abuja on the 10th of December, 2012

¹²⁸ Order VIII, Rules 2 and 4