

Perceptions of Corruption in the Nigerian Judiciary

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Abstract

The perceived menace of corruption in the Nigerian judiciary has made it a topic of great importance for academic and research. The objective of this study is to find out the perceptions of corruption in the Nigerian Judiciary. To achieve this objective, data was collected from primary sources using well-structured questionnaire. The collected data were analysed using chi- square to test our hypothesis.

The study revealed that that bribery, Nepotism and cronyism are forms of corruption which leads to compromise of the judiciary and hinders judicial effectiveness. Weak judicial system not seen as a form of corruption does not affect the interpretation of the rule of law. This study therefore recommends that government should demonstrate a political will to fight corruption no matter whose ox is gored as this anomaly have negative effect on the economic growth of the country.

Keywords: Corruption, Nigerian Judiciary, Nepotism, Cronyism, Fraud, Weak judicial System.

Introduction

Corruption is a very complex issue, and it is an endemic and socio-economic problem in Nigeria. Its roots can be found deep in the bureaucratic, corporate and political institutions. According to the global Corruption Perceptions Index (CPI) 2009 by Transparency International (TI), which generated healthy debate, Nigeria occupies 130th position out of the 180 countries surveyed. The effects of corruption in Nigeria have not been insignificant. The judiciary once viewed as the last hope of the common man now appears to be a fallacy of imagery in recent times. This is because of the unethical and illegal activities that go on in the Nigerian judicial system. Indeed, corruption has found its way into the judiciary and the confidence of the people in the judiciary as the “last hope” of the common man has been eroded (Okeyim, Ejue & Ekanem, 2013). Corruption in the judiciary compromises the rule of law. This can be seen in the words of Ogbu (2011) as he says “the high courts, however, have been a stumbling block in the fight against corruption through the abuse of their power to grant injunctions.”

According to Okeyim et al (2013) the presence of corruption in the Nigerian judicial system can be seen in the case where some Senior Advocates of Nigeria (SAN), were arraigned in an Abuja High Court for offering gratification to some officers of the Independent National Electoral Commission. On that same day of their arraignment, the High Court discharged them without reasonable grounds. It is therefore based on all these

compromising application of the rule of law that the issue of corruption within the judicial system in Nigeria was generated.

The public chorus of disapproval against the perceived corruption which has reared its ugly head in the judiciary calls for critical examination. This is because the “worst kind of corruption is judicial corruption. It is the specie that signals final decay which may lead to unconsolidated democracy and by extension fatal sustainable development (Wali, 2012). The perception now is that judgments are purchasable and judges have no integrity. They all have their prizes in cash, and in fact, there are some lawyers whose special function are to be the middlemen between litigants, who want to buy justice and judges...” (Sagay, in *Nigerian Pilot*, August 1, 2011).

Statement of the Research problem

Abdulkarim (2012) asserts that in other to maintain rule and regulation, the judiciary's foremost role as the third branch of government is to defend and uphold the Nigeria Constitution and assure that the rule of law prevails. Under that general duty and mandate, the everyday work of the judiciary reflects to some extent the level of a court's or judge's jurisdiction. However, a pervasive element in the judiciary's role at every level is the protection of each person's Constitutional, human, civil and legal rights. The judiciary also has an essential role in protecting the people from the wrong-doing of others, protecting the weak from the strong, and the powerless from the powerful as well as protecting individuals from the unwarranted or unlawful exercise of power by the State. Moreover, the judiciary plays a crucial role in securing domestic tranquillity by providing a structured institutionalized forum for the resolution of discord and the vindication of civil and criminal wrong-doing. But due to the high level of corruption within the judiciary, the role of the judiciary becomes questionable in the public eyes. The Judiciary is also beset by serious ethical problems, including an increasingly nepotistic mode of appointment of judges and elevation to the higher judicial benches, and cases of corruption and perversion of justice (Ogunye 2011).

More disturbing is determination of election petitions and general litigations relating to the investigation, arrest, detention or trial of prominent members of the political class, for corrupt practices, have offered the worst instances of judicial corruption, in the World. Openly, eminent jurists and senior citizens are decrying the situation whereby corruption is eating deep into the heart of the Judiciary (Ogunye 2011). According to Aver and Orban (2014) the Judiciary in Nigeria has manifested inability to contribute to the development of democracy in contemporary society through perpetrating electoral malpractices of corruption, making a lot of people to belong without genuinely following the due process of going to tribunal to pursue their electoral victory, with false declaration leading to violence which often kills democracy. The image of the judiciary in Nigeria today is that of an institution where anything goes, a lot of people have been perverting justice especially civil and political cases. For instance in the 2003 elections politicians effectively killed democracy in Nigeria and it was buried by the judiciary. The elections were allegedly rigged throughout the federation and every election monitor attested to that effect. The Catholic Secretariat in Nigeria which deployed more than 30,000 election monitors who asserted that there were no elections in most parts of Nigeria where the president's cronies were declared winners. The opposition parties, and even the People Democratic Party (PDP) enemy factions, who went to court thinking that the judiciary was the last bastion of democracy were shocked as most of the fraudulent elections were upheld by the tribunal (Aver & Orban, 2014).

In the light of the above, this study therefore examines the issue of perceived judicial corruption in Nigeria. With this, the study wish to fill the gap by addressing the following research questions.

- 1 To what extent will bribery corrode the effectiveness of the judiciary?
- 2 How will weak judicial system lead to compromise in the application of the rule of law?
- 3 How will Nepotism and cronyism affect the integrity of the judiciary?

Objective of the study

The broad objective of this study is to investigate the various perceptions of corruption in the Nigerian Judiciary. The specific objectives are to:

- 1 find out if bribery will corrode the effectiveness of the judiciary
- 2 Ascertain if weak judicial system will lead to compromising the application of the rule of law
- 3 Determine if nepotism and cronyism will affect the integrity of the judiciary.

Statement of hypothesis

Ho1 bribery cannot corrode the effectiveness of the judiciary.

Ho2 Weak judicial system will not lead to compromise in the application of rule of law.

Ho3 Nepotism and cronyism will not affect the integrity of the judiciary.

Literature Review

The Nigerian Judiciary

Wikipedia, the free encyclopaedia (2013) as cited in Aver and Orban (2014) denotes the judiciary (also known as the judicial system) as the system of courts that interprets and applies the law in the name of the state. The judiciary also provides a mechanism for the resolution of disputes. Under the doctrine of the separation of powers, the judiciary generally does not make law (that is, in a plenary fashion, which is the responsibility of the legislature) or enforce law (which is the responsibility of the executive), but rather interprets law and applies it to the facts of each case. This branch of the state is often tasked with ensuring equal justice under law. It usually consists of a court of final appeal (called the "Supreme court" or "Constitutional court"), together with lower courts.

With respect to this study, the word "Judiciary" is defined as the court of a country. It is the branch of Government vested with judicial powers. It is generally regarded as the third arm of government. The function of the judiciary is the interpretation of the laws enacted by the legislature.

The judiciary is an arm of government that wields the power of judicial review, discharges the laws that are made from the legislative houses and executive powers. In this wise, it functions as the guardian angel over the other arms of government, and ensures that their separate or joint operations are not only in strict adherence to the rule of law, but also do not destabilize or destroy the democratic order in the society. The institution determines any question regarding civil rights and obligations of the citizens, declaring and enforcing rights, annulling or validating acts, awarding penalties, including custodial punishments, prohibiting, compelling private and public actions, generally giving redress, remedies for actionable private and public wrongs (Ogunye 2011).

Concept of Corruption

Transparency International (TI) (2006)'s defined corruption as "the abuse of entrusted power for private gain". It manifests in extortion, bribery and other acts of misconduct,

including fraud and embezzlement. It can encourage extravagant government spending, and can have a damaging effect on economic development and democratic institutions. Corruption according to Abdulkarim (2012) refers to any act by a public official which violates the accepted standard of behaviour in order to serve private or selfish-ends. The end which the behaviour will serve may be social, economic or political. These standard may be legal or conventional norms for private gain. Private gain will include the gains in cash or in kind for one's self, relative or friends.

From 1993-1998, corruption has transmuted from vice to virtue. Nigeria became the infamous leader of the most corrupt countries in the world. It became entrenched as the new culture. It spread to most homes and offices. Government departments became the nerve centres dictating the pace and the going rates (Abdulkarim, 2012)

Judicial corruption

By inference, judicial corruption is acts or omissions that constitute the use of public authority for the private benefit of judges, court and other justice sector personnel that result in the improper and unfair delivery of judicial decisions (Ayodeji & Odukoya, 2014).

Judicial corruption can be categorised into two, this include administrative corruption and operational corruption. Administrative corruption arises when court administrative employees violate formal administrative procedures for their private benefit while operational corruption takes place in grand corruption schemes where political and/or considerable economic interests are at stake (Langseth & Bryane in Ugochukwu, 2011). These corrupt practices as perceived in the Nigerian Judiciary includes; bribery, fraud, nepotism and cronyism and weak judicial system.

Bribery has been defined as an act of giving or taking money or something valuable in order to gain favour in a dishonest manner (Okeyim, 2013). In Nigeria, attempting, providing, giving, soliciting or accepting a bribe is considered as an offence that carries with it either criminal or civil liability. Bribery by implication is a corrupt act that violates a public servant's responsibilities to members of the public. It involves the violation of public trust. It encourages unfair or undeserved benefit or advantage (Ogbu, 2011). Bribery can also be successful if there exists trust between the giver and receiver. This therefore makes bribery a joint activity that involves two sides of a transaction. Criteria such as openness, freedom and good feeling by both parties (ie Both parties must be happy about the exchange) is used to distinguish between a bribe and a gifts But where there are elements of secrecy, coercion and obligation, such is considered as a bribe and not a gift (Okeyim, 2013). In Nigeria, bribery is a very common form of corruption that occurs in her judiciary. For example with the coming of Goodluck Jonathan as President Federal Republic of Nigeria, with huge financial inducements to rig cases before them, Nigerian judicial officers handling election petitions now qualify to be inducted into the inner sanctum of the super-rich overnight. Many cases abound at the state level where judges are frequently influenced by the governors to delay, pervert the case or do something scandalous to favour those who lost out in election (Aver & Orban, 2014).

Fraud is one common corrupt practice in the Nigerian Judiciary. Officials result to it gain illegal and unearned income. Fraud is viewed as an act of misrepresentation or deception. In Nigeria the loss of revenue through fraudulent activities runs into about forty billion dollars annually (Tell, 2010).in the judiciary, fraud involves receiving bribes to compromise the application of the rule of law, compromise in the interpretation of the law. Ogbu (2011) in an essay titled "Political will and war against corruption" agrees with this assertion.

This ruling by the apex court was quite unfortunate and damaging for the image of the judiciary. The court should have, at least made pronouncement on the illegality and unconstitutionality of the action of corporate Nigeria in making a political donation in billions of naira to President Obasanjo's re-election campaign when the constitution in an unambiguous term expressly prohibits it. The above analyses portray the judiciary as not only compromising the law but laying dangerous precedents for corrupt practices to thrive in Nigeria. It is therefore based on all these compromising application of the rule of law that the issue of corruption within the judicial system in Nigeria was generated.

Osuji (2012) asserts that it is painfully enough, the judiciary at the state level today is obviously frustrating democratic process by using what journalist described as "illegality of justice through endless adjournments and raw injunctions". Some cases are so theatrical to the point that one began to wonder what has become of Nigerian judiciary. Good examples can be drawn from the governorship cases in Sokoto and Borno were almost mere melodrama. Even when the National Assembly attempted to address the problem arising from endless adjournments of cases, particularly in election matters, they made the matter worse. By fixing a time limit for ending every election cases, it played well into hands of some of the obviously corrupt judges and politicians (Aver & Orban, 2014). They exploited the situation as it was suspected that they entered into a deal with the affected governors by delaying the cases until they became technically dead that is the expiration of time limit. For instance the case of Benue, Akwa-Ibom, Jigawa, Borno, and Imo States among others is still fresh in the memory of Nigerians. Even some cases that were too obvious and clear were thrown out on a mere flimsy excuse of time frame. Some judges take delight in the granting of unwarranted adjournments to kill the obvious time so that it will not lead to the efficacy of justice. Yet they subscribe to the truth of legal axiom, "justice delayed is justice denied". They capitalize on every little loophole in cases, particularly political cases, either to dismiss the case or embark on escapade of endless adjournments.

Morris Cane once wrote: "Any technicality in law used to dismiss a case is not a true justice; if dispensed, it is justice denied over the influence of remote reasons because it is not the real justice" (Morris Cane in Osuji 2012).

Nepotism and cronyism imply or involve favouring of relatives (nepotism) or personal friends (cronyism). So, when a relative or personal friend is favoured by an official, it is a form of illegitimate private gain. Nepotism and cronyism may be combined with bribery.

Weak judicial system is a serious cause of corruption. Most often, judicial systems are weak as a result of poor conditions of service. In such situations, it is the poor people that suffer the brunt of injustices as the rich always stand a better chance of getting justice over the poor. Furthermore, the absence of clear-cut separation of powers between the judiciary and executive arms often results in the latter exercising undue influence over the former. Additionally, deficiencies in the judicial/legal system can exacerbate inequitable political or economic situations. Disparate treatment by authorities can undermine non-dominant groups' confidence that the system will redress their grievances, leaving no alternative to violence, for example, where access to and transparency of the judicial system is limited to those who speak an official language (bribery), ethnic groups who speak a different languages are left outside the legal system. A functioning judicial/legal system is important for sustained democracy. In some conflict situations, dealing effectively with the injustices of the past is critical to breaking the culture of impunity that provides incentives for violence (Abdulkarim , 2012) . It is a system that allows debtors of all kinds to abscond at will, knowing that none but the most determined of creditors will pursue them through the courts.

Finally, under a weak and corrupt judicial system, it is difficult for a lawyer to predict the likely outcome of a case based on the merit, facts, the law and the brilliance of the lawyers who handle the case. However, politicians would text the outcome of the judgement to their party men before the judgement is delivered and prepare for their supporters ahead of time for celebration. One of the side effects of a corrupt judiciary is that it becomes inevitably too weak and increasingly incapable of discharging its critical responsibilities to the society, especially to the poor and vulnerable. Incidentally, this is one of the indicators of a "failed state", according to the Failed States Index.

Methodology

The survey design will be used in this study. In considering sample size, Saunders and Thornhill (2003) as cited in Modugu and Ayanduba (2013) suggests that a minimum number of thirty (30) for statistical analyses provide a useful rule of thumb. Nevertheless, we will adopt a sample of Ninety six (96) respondents. The sampling was done using simple random sampling. Primary data was used in the study. The data was generated using well-structured questionnaire. In this study we employed chi- square for the analyses of data on a 10% level of significance. The model specification for this study is:

$$x^2 = \sum_{i=1}^r \sum_{j=1}^c (o_{ij} - e_{ij})^2 / e_{ij}$$

e_{ij} = expected frequency in the ij th cell

e_{ij} = (ith row total \times jth column total)/grand total

DECISION RULE

Reject H_0 : if x^2 calculated $>$ x^2 tabulated

Don't Reject H_0 : if x^2 calculated $<$ x^2 tabulated

The choice for the methodology is because the research met the requirement of Chi- square which is testing the relationship between variables.

Data presentation, Analysis and interpretation

Demographic analyses of respondents

Sex distribution

Table 1. 0

Sex	Respondents	Percentage%
Male	65	68
Female	31	32
Total	96	100

Field Survey 2015.

From the analysis of the responses retrieved, of the 96 respondents whose responses were used for the analysis, 31 of the respondents were female which represents 32 % of the sample while 65 of the respondents were males which represent 68% of the sample. This shows that there is a gap between the genders of the respondents.

Age distribution

Table 1.1

Age	Respondents	Percentage %
18-30	11	11

30-35	70	73
35 and above	15	16
Total	96	100

Source: field survey, 2015

From the analysis of the responses retrieved, of the 96 persons whose responses were used for the analysis, 11 representing (11%) of the respondents were within the age range of 18-30 while 70 representing (73%) of the respondents were in the age range of 30-35 years. The remaining category of 35 and above had a total of 15 respondents representing 16% of the sample. This invariably means that the respondents are made up of vibrant and matured individuals in the society.

Educational qualification

Table 1.2

Qualifications	Respondents	Percentage %
WASCE	8	8
OND/NCE	14	15
B.Sc./B.A	65	68
M.Sc./Ph.D.	9	9
Others	-	-
Total	96	100

Source: field survey, 2015

From the analysis of the responses retrieved, of the 96 respondents whose responses were used for the analysis, 8 representing (8%) of the respondents have SSC qualifications. 14 representing (15%) of the respondents have OND/NCE qualifications, 65 representing 68% of the respondents have B.sc/B.A while 9 representing (9%) of the respondents had M.sc/Ph.D. The implication of this, is that the questionnaire administered for the purpose of this study is filled by educated and informed individuals which are assumed to have a better understanding of the issue of corruption in the Nigerian judiciary.

Testing of hypotheses

Ho1: bribery cannot corrode the effectiveness of the judiciary.

Table 1.3a

Questions	SA		A		U		SD		D		Total
	Oij	eij	Oij	eij	Oij	eij	Oij	eij	Oij	eij	
1	52	47.33	38	41	4	3.66	0	1.66	2	2.33	96
2	30	47.33	59	41	5	3.66	1	1.66	1	2.33	96
3	60	47.33	26	41	2	3.66	4	1.66	4	2.33	96
Total	142		123		11		5		7		288

Source: Field survey, 2015

Table 1.3b

Oij	eij	$(Oij-eij)^2$	$(Oij-eij)^2/eij$
52	47.33	21.81	0.46

30	47.33	300.33	6.35
60	47.33	160.53	3.39
38	41	9	0.22
59	41	324	7.90
26	41	225	5.49
4	3.66	0.12	0.03
5	3.66	1.80	0.49
2	3.66	2.76	0.75
0	1.66	2.76	1.66
1	1.66	0.44	0.27
4	1.66	5.48	3.30
2	2.33	0.11	0.05
1	2.33	1.77	0.76
4	2.33	2.79	1.20
		X ² calculated= 32.32	

χ^2 tabulated , d.f = (r-1) (c-1), level of significant= 0.10

χ^2 tabulated 8, 0.10 =13.36

The chi-square calculated value of 32.32 is significantly higher than the 13.36 table value at 0.10 level of significance. Consequently the alternative hypothesis is accepted and the null is rejected. (i.e $X^2 = 32.32$, table = 13.36, d.f = 8; $p > 0.10$). Based on this result, we therefore can say that on the average; bribery corrodes the effectiveness of the judiciary.

Ho2: Weak judicial system will not lead to compromise in the application of rule of law.

Table 1.4a

Questions	SA		A		U		SD		D		Total
	Oij	eij	Oij	eij	Oij	eij	Oij	eij	Oij	eij	
1	30	34.33	46	46	8	7	7	4.66	5	4	96
3	35	34.33	50	46	5	7	4	4.66	2	4	96
4	38	34.33	42	46	8	7	3	4.66	5	4	96
	103		138		21		14		12		288

Source: field survey, 2015

Table: 1. 4b

Oij	eij	(Oij-eij) ²	(Oij- eij) ² /eij
30	34.33	18.75	0.55
35	34.33	0.45	0.01
38	34.33	13.47	0.39
46	46	0	0
50	46	16	0.35
42	46	16	0.35
8	7	1	0.14
5	7	4	0.57
8	7	1	0.14
7	4.66	5.48	1.18
4	4.66	0.44	0.09
3	4.66	2.76	0.59
5	4	1	0.25

2	4	4	1
5	4	1	0.25
			X ² calculated= 5.86

x² tabulated , d.f = (r-1) (c-1), level of significant= 0.10

x² tabulated 8, 0.10 =13.36

The chi-square calculated value of 5.86 is significantly lower than the 13.36 table value at 0.10 level of significance. Therefore we accept the null hypothesis and reject the alternate hypothesis. This means that technically, Weak judicial system will not lead to compromise in the application of rule of law. (i.e X² = 5.86, table = 13.36, d.f = 8;p<0.10).

Ho3 Nepotism and cronyism will not affect the integrity of the judiciary.

Table 1.5a

Questions	SA		A		U		SD		D		Total
	Oij	eij	Oij	eij	Oij	eij	Oij	eij	Oij	eij	
1	56	42.33	32	44	2	2.66	1	4	5	2.33	96
2	45	42.33	44	44	2	2.66	5	4	0	2.33	96
3	26	42.33	56	44	4	2.66	6	4	2	2.33	96
Total	127		132		8		12		7		288

1.5b

Oij	eij	(Oij-eij) ²	(Oij- eij) ² /eij
56	42.33	186.87	4.41
45	42.33	7.13	0.17
26	42.33	266.67	6.30
32	44	144	3.27
44	44	0	0
56	44	144	3.27
2	2.66	0.44	0.17
2	2.66	0.44	0.17
4	2.66	1.80	0.68
1	4	9	2.25
5	4	1	0.25
6	4	4	1
5	2.33	7.13	3.06
0	2.33	5.43	2.33
2	2.33	0.11	0.05
			X ² calculated= 52.13

x² tabulated , d.f = (r-1) (c-1), level of significant= 0.10

x² tabulated 8, 0.10 =13.36

The chi-square calculated value of 52.13 is significantly higher than the 13.36 table value at 0.10 level of significance. Consequently, the study therefore reject the null hypothesis that Nepotism and cronyism will not affect the integrity of the judiciary and accepts the alternate hypothesis that corruption will affect the integrity of the judiciary.(i.e X²= 52.13, table =

13.36,df = 8;p>0.10). This implies that Cronyism and Nepotism will affect the integrity of the judiciary.

Summary of findings

Prevalence of corruption in the Nigeria society is partly responsible for corruption in the judiciary. The growing culture of corruption has almost become a way of life and this has had more fundamental negative effects on the judiciary as the bastion of hope for the common man. Based on the various literature reviewed and the empirical study carried out. This study reveals that weak judicial system is not a form of corruption in the Nigerian judiciary as it will not lead to compromise on the application of the rule of law. Cronyism and Nepotism are forms of corruptions as these practices affects the integrity of the judiciary through compromise of the rule of law. This problem of corruption in the judiciary is as a result of the mode of appointment of judicial officers in Nigeria which today is guided by nepotism. Bribery as a form of corruption corrodes the effectiveness of the judiciary through violation of independence in judgement and biased application of the rule of law. Influence and pressure of politicians, paramount rulers and top businessmen are part of the major causes this judicial corruption. These categories of people usually employ every available socio-economic and political means at their disposal to induce highly placed judicial officers to dance to their tunes, thereby wooing them to hamper the course of justice delivery in the country.

Conclusion and Recommendation

In present day Nigeria, Corruption has become so prevalent, that it is now accepted as a normality. The judiciary known as a vital organ and an instrument that promote democracy in the society is said to lack free and fair in the implementing of political cases.

Based on our findings, Corruption is a phenomenon viewed from different perspectives as a canker worm that has eaten up the Nigerian judiciary. Different perceptions have these corrupt practices as cronyism, nepotism, bribery and weak judicial system. However, even though weak judicial system can cause or can create an avenue for corruption, it's not a corrupt practice in the Nigerian judiciary.

Based on this, the study concludes that bribery, Nepotism and cronyism are forms of corruption which leads to compromise of the judiciary and hinders judicial effectiveness. Weak judicial system not seen as a form of corruption does not affect the interpretation of the rule of law. This study therefore recommends that government should demonstrate a political will to fight corruption no matter whose ox is gored as this anomaly have negative effect on the economic growth of the country. In line with Aver and Orban (2014), various punishments and sanctions such as death sentence, dismissal from service, suspension, compulsory retirement and public humiliation by sending them to prisons to serve jail terms should be awarded to erring judges who indulged in such corrupt practices.

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