Assessing the Effectiveness of International Law in Anti-corruption Efforts: a Case Study of Nigeria

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Abstract

This thesis is about assessing international legal frameworks and determining how international law on anti-corruption efforts in Nigeria are effective or ineffective. The thesis engaged in process tracing methods to arrive at its conclusions. Three basic causal mechanisms-coercion, persuasion/ stigmatization, and cooperation- were engaged to ascertain the effectiveness of international law on anti-corruption efforts in Nigeria. For the three causal mechanisms to be evaluated, the executive and judicial arms of government were used as case studies to look at how public offices are corrupt. At the end, it was discovered that international law, at some point, proved effective in Nigeria but later did not. Furthermore, it was also found that international law was not effective domestically within Nigeria, but effective on corrupt Nigerians who were caught outside of Nigeria.

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Chapter 1: Introduction

Background to the Study

Corruption is a practice that is not restricted to any human race, class, religion, or ethnic affiliations; it embodies disruptive and destructive consequences for societies and states, and these consequences are evident and well documented (Iyanda, 2012). It continues in contemporary times to ravage countries in which high levels of corruption exist. The construct and manifest representation of corruption is a term that has been variously defined. A streamlined and prevalent meaning approved by the World Bank, which maintains corruption as the misuse of people's authority for personal advantage (Gray and Kaufmann, 1998; Tanzi, 1998), will be utilized in the context of this study.

It is well accepted by scholars that corruption in practice could hinder the development of society and lead to the deprivation of members of society. However, some scholars differ and posit that acts of corruption could trigger social advancements (Otite, 1986). This minority opinion contradicts the more popular opinions of the disruptive and destructive nature and consequences of corruption which has snowballed into a worldwide outcry and has coalesced into open calls for eradicating the scourge of corruption. Corruption affects every facet of human existence where it is being practiced. According to the Office of the High Commissioner for Human Rights (OHCHR), corruption distorts policies and priorities, and undermines the firmness of institutions processes. It also leads to the failure, lack of community support, and confidence within government organizations because of the lack of authenticity from different regimes (OHCHR, n.d.). Mirzayev (2020) said that economies that are corrupt are not capable of prospering as compared to those that are not corrupt. According to Transparency International (TI), corruption affects us all. Also, it reiterates that corruption jeopardizes viable commercial growth, moral ideals, and fairness. Furthermore, corruption has the capacity to destabilize societies and jeopardizes the power of law (We are all affected, 2015). Furthermore, Independent Broad-based Anti-Corruption Commission (IBAC) (Impacts of Corruption, n.d.) opines that corruption harms and offends everyone within that community in which corruption is being perpetrated. The effect of corruption lives beyond the individual who commits it. Corruption makes citizens to lack confident in public officers in the capacity to act in their best interest. Corruption is rife in Nigeria and has inhibited social and political cohesion amongst its people. As a consequence of the rifeness of corruption in Nigeria, there has been an erosion of religious and cultural values, leaving social structures in tatters (Rotberg, 2009)

Despite the overt social and political claims to religion(s) and an embrace of cultural heritages by Nigerians, acts of corruption have eroded Nigeria's traditional values leaving society too debased to reflect on the consequences of its actions and instead wholly accept the Machiavellian philosophy of "the end

justifying the mean" (End Justifies the Means in Machiavelli's Philosophy, 2012). This typifies the nature of corruption among government officials and their agents, and why international regulations do not appear to curtail the corruption's prevalence in Nigeria. As a practice, corruption is now deeply rooted in Nigeria.

Consequently, both the rulers and the citizens of Nigeria are gradually realizing the negative effect of corruption on the economy, social life, political life, as well as psychological constitution of the citizens (Ortiz-Ospina & Roser, 2016). However, it is clear to everyone that no country in the world is free and safe from corruption. The measure upon which corruption is based on are on the increase in the continent of Africa where there is high poverty and underdeveloped countries (Ortiz-Ospina & Roser, 2016).

TI defines corruption as involving "behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves or those close to them, by the misuse of the public power entrusted to them" (Transparency International, 2018). This further definition of corruption provides an elaboration of the World Bank definition referenced at the outset because it goes to show that corruption is not only limited to the misappropriation of funds, but especially the misuse of power and privileges that accrues to a person by virtue of his position or office.

TI's 2019 CPI report repeatedly stated that Nigeria is corrupt based on the position that Nigeria received on the CPI. Nigeria's position was 146th on the corruption ranking over 180 (Adesoji, 2020). This ranking was based on specific criteria which included: the number of corrupt public officers, politicians, and willingness of countries to give and accept bribes in the area of procurements and embezzlement of government funds (Salisu, 2006).

The CPI assesses different countries internationally by assessing how corrupt a government is based on specific measures every year. These evaluations began in 1995, however Nigeria was not included until 1996. CPI has the mission of reducing corruption and increasing transparency, making governments accountable, and bringing leaders to a sense of integrity worldwide. To ascertain how corrupt a government is, survey is carried out by interviewing members of the public within different sectors (CPI, n.d.).

In true form, the serious concern attached to the practice and consequences of corruption from the perspective of the citizens is difficult to be described because, presently, corruption is a tedious problem in Nigeria due to the country's stigmatization as one of the most corrupt counties globally. According to TI, in the CPI report from 2014, more than 75% of the countries surveyed were below average in corruption ranking. As a matter of fact, some countries were in the scale of 0-50. These countries were tagged to be heavily corrupt. (New Telegraph Editorial, 2014).

According to CPI's 2019 report released by TI, Nigeria scored 26 out of 100 marks to be at the 146th position out of 180 surveyed countries, thus showing that Nigeria is one of the worst corrupt nations worldwide (Nigeria Corruption Index1996-2019, 2020).

Purpose of the Study

The purpose of this study is to explore how international law addresses the issue of corruption, and how international law has impacted domestic efforts to combat the scourge of corruption in Nigeria. The thesis therefore aims to contribute to existing scholarship in the

following ways:

- Provide a better understanding of how international law works
- Identify the level of corruption in the corridors of power in Nigeria
- Examine the place of international law against the fight corruption in Nigeria
- Evaluate the effect of international law mechanism on Nigeria's anti-corruption fight

Scope of the Study

The scope of this thesis focuses on the legal framework and application of international law on the management and prevention of corruption in Nigeria between 2007-2019.

The reason for choosing this time frame is because it marked the successful transition of power from a civilian government to another (from Chief Obasanjo to Alhaji Umaru Yar'Adua) with their commitment to fight corruption in all ramifications, and the contemporary civilian administration of President Muhammadu Buhari who unseated an incumbent President Goodluck Jonathan in 2015 on the populist appeal to fighting corruption. As such, we can explore how international law has worked in the context of two civilian administrations that had made appeals to fighting corruption

The intensification of the incidence of corruption within the timeframe and the overt recognition of its pernicious and pervasive consequences in the country makes the scope of the research more relevant. In 2016, Nigeria's CPI score was 28 out of 100 and declined to 26 out of 100 according to the 2019 report (Nigeria Corruption Index1996-2019, 2020). Thus, proving that over the past four years, corruption in Nigeria is on a steady incline.

Statement of the Problem and Research Questions

From the return of Nigeria to civil rule in 1999, various administrations established numerous institutions and designed numerous policies to fight corruption. These institutions have not functioned appropriately largely due to public perception and the national ethos of complacence which has resulted in the institutionalization of corruption in Nigeria.

Thus, in many countries in different continents, Nigerians were treated with suspicion and embarrassment and foreigners are wary of making Nigeria their investment destination. Government has made efforts to combat corruption, but these efforts are thwarted by corrupt individuals and institutions who do not want to see corruption diminished because of their benefit they receive.

It is believed that corruption is rampant in Nigeria so much so that public disapproval of it has gradually turned into tacit acquiescence and positive acceptance. This unfortunate and negative image therefore raises a potent question as when is Nigeria planning to get out of this swamp in which she is bogged down and join the comity of respected and dignified nations of the world? There is no better time to act than now to investigate the problem of corruption for the sake of the unborn generation.

Despite the several legislations and multiple institutions put in place to fight corruption, little result has been achieved. This has made people to lose hope in the government and its institutions' ability to get out of this difficult situation. The political and socio-economic damaging consequences of corruption have been so devastating that unless decisive steps are taken, the country might as well be doomed.

Therefore, the specific research questions that will be explored in this thesis are:

i. 1. How effective is international law on Nigerian's fight against corruption?
   2. Despite the preponderances of international legal instruments, has corruption diminished among government officials and government agencies?

ii. 3. How much has international legal and international frameworks impacted on Nigeria's anti-corruption efforts?

Questions 1 and 2 will be answered directly while question 3 will be subjected to hypothesis testing.

Research Hypotheses

- H_1: International law has impacted Nigeria's anti-corruption efforts as a result of the issue of linkages drawn by foreign governments (coercive model).
- H_2: International law has impacted Nigeria's anti-corruption efforts as a result of stigmatizing the practice of corruption (persuasive model).
- H_3: International law has impacted Nigeria's anti-corruption efforts as a result of cooperation with other states and international non-governmental organization (liberal model).

Methods and Research Design

The case study qualitative research method will be applied to this thesis. This method of qualitative research is appropriate because this research work will rely on documented real-life instances to buttress its stand points on the subject of corruption within Nigeria. The case study approach is "an empirical enquiry that investigates a contemporary phenomenon within its real-life context" (Atkinson, 2002, p. 10). Consequently, information is collected via published works such as books, conference papers, articles, online publications, and journals newspapers. The primary interests in these materials are as they relate to the issues of corruption, particularly as it concerns corruption in Nigeria.

According to Obasi (2000), secondary sources rely on information pieced together from documents. These documents may be printed and unprinted materials, about the events of government and NGO which is a significant channel of information for qualitative political analysis (Obasi, 2000). This type of data could be obtained easily even without the consent of the original owner or the creator of such documents. The advantages of secondary sources "are that it is economical, the cooperation of the individual about whom information is being sought is not required; thus, creating an analytical basis for establishing trend of events". (Obasi, 2000, p. 120).

Data Analysis

An aspect of content analysis, which is a qualitative descriptive analysis, will be adopted for this study. According to Asika (1991), "qualitative descriptive analysis essentially has to do with summarizing the data generated in the research" (p. 118). By doing this, it will be possible to process-trace how international has (or has not) impacted corruption in Nigeria and therefore identify causal mechanisms at work.

This research work is a non-experimental research, however to analyze the information, a qualitative descriptive analysis will be adopted from our sources on the efforts or actions of International Law and the application of its mechanisms – Coercion and Persuasion – in the fight against corruption in Nigeria. Qualitative descriptive analysis will therefore be used to identify causal pathways and causal mechanisms at work in order to explore how international

law matters, or fails to matter, in the Nigerian context.

Significance of the Study

This thesis has theoretical and feasible importance. The theoretical aspect of this study, by clarifying issues and facilitating understanding of the role International Law against corruption, will be a further contribution to the pool of knowledge and a source for additional research and inquiry on this topic.

Practically, the study will be of interest and immense benefit to scholars, international observers, as well as experts in International Law and International Relations in Africa specifically and Nigeria explicitly, on how best to tackle corruption from a new or already existing dimension.

This Chapter provided an introduction to the research. It outlined clearly established in the background to the study, followed by the purpose of the study that specified the aim and objectives of the research, and then the scope of the study which identified the time period that the research addressed. Next, was a statement of the problem of the study, which led to the research questions and the research hypotheses that will be used to validate the questions. Thereafter, the processes of data collection, evaluation of such data and the research design adopted were all established. Chapter 2 will focus on the literature review of scholars in line with my research with a view of filing academic gaps with keen attention given to the two case studies for this thesis. I will examine the theoretical framework that best suits this research. This is critical because it will make the reader understands from which point of view theoretically this research is borne.

Chapter 2: Literature Review

Introduction

In the last chapter, the background and scope of this study have been discussed. In this chapter, a literature review will be conducted, followed by the presentation of this thesis' theoretical framework. First, published works that deal with the issue of corruption as a phenomenon and some that are tangential to the topic are to be discussed alongside a conceptual clarification of the key terminologies, after which a theoretical outline for the examination of the study will also be executed to cumulatively give a clear outline and enhance the comprehension of the research work.

Review of Literature and Conceptual Clarification

Corruption is a conduct, which differs from the typical responsibilities of a public position and violates a moral code because of confidential rapport and individual benefit. This behaviour includes inducement, which is rewarded to change the pattern of behaviour of a person in a position to act in a manner they shouldn't have acted, had he not received the award (J. S. Nye in Heidenheimer *et al*, 1989).

Corruption is present in areas where there is a public office holder who is charged with a responsibility of trust. This office holder can be influenced by money or other rewards not provided for legally, in order for them to provide justice and thereby loose the public's trust and interest (Onuigbo, & Eme, 2015). Corrupt practices typically included payment of nonexistent workers, inflation of salaries and allowances of staff members, illegal variation of contact payments, fraud, bribery, manipulation of contract money by budget handlers, outright

payments for incomplete jobs, indiscriminate increase to paid workers, misappropriation of government funds by those who are supposed to handle government funds, and intentional creation of irregularities in accounting processes. (Onuigbo & Eme, 2015).

Corruption is also defined as "an arrangement that involves an exchange between two parties (the demander and the supplier) which (i) has an influence on the allocation of resources either immediately or in the future; and (ii) involves the use or abuse of public or collective responsibility for private ends" (Macrae, 1982, p. 678). Chiamogu and Chiamogu (2019) used the International Monetary Fund definition of corruption based upon Gurgen and Wolf's (2000) definition which stated that corruption is the "abuse of authority or trust for private benefit: and is a temptation indulged in not only by public officials but also by those in positions of trust or authority in private enterprises or non-profit organizations".

According to Nkom (1982), corruption is the convection of government funds and influences for private gains. In his views, the art of corruption entails bribery or use of illegal rewards to make people in leadership positions to act or decline from acting in such a way that the giver of the bribe will benefit. Furthermore, corruption includes misappropriation of funds and government resources for individual gains and nepotism (Nkom, 1982). More so, Doig (1996) stated that the act of corruption is the erroneous use of public office, resources, facilities for everyone to the benefit of the individual or personal interests. In his submission, corruption involves gross misconduct of public officers which is usually kept in the dark by a plethora of internal regulations (Doig, 1996).

From the submissions of Nkom (1982) and Doig (1996) it is clear and easy to find scholars referring to corruption as the deviation from what is normal and expected of a public office holder. Therefore, corruption includes misapplication, kickbacks, bribery, misappropriation, and the use of one's office to benefit himself. Thus, all transactions which deviates from what is normal and helps a public office holder to use the resources of government for his personal gains amounts to corruption.

According to Gibbons and Rowat (1976) corruption is political. He believes corruption is related to the method in which public officers abandon the interest of the public irrespective of the opinion of the masses, thereby amassing undue advantage to themselves at the detriment of the citizens. A more comprising meaning of corruption came from Akindele (1995), in which he states that corruption extends across social, political, morals, economics, and psychological aspects of the society.

Akindele (1995) opined corruption is idealistic, intellectual, cultural, and moral. On the other hand, a simple but all-embracing definition of corruption is seen happening as acquiring of funds that one is not entitled to (Salawu, 2007).

From the above there is a departure from what the public witness as the correct way of exchanging service on the part of everyone living within society. This suggests that corruption is viewed in different perspectives by different people- where when it serves their individual interest, it is acceptable but when the existence and actualization of the phenomenon results in a negative outcome for such persons, then corruption becomes reprehensible.

Similarly, like other social sciences concepts, corruption is arranged by concepts termed by Gallie (Fagbadebo, 2007) as extremely contestable. In other words, defining

corruption could be restricted, analyzed or attached. Onigu (1986) saw corruption as a total departure from integrity, sincerity and the acceptance of favour and bribery.

Corruption, like most concepts in the social sciences, is classified into the group of concepts described by Gallie as highly contestable concepts (Fagbadebo, 2007).

While all of the above definitions of corruption highlight different aspects of corruption, this thesis uses the World Bank definition of corruption because it provides a broad and inclusive terminology that captures much of what has been discussed above.

The Manifestations and Consequences of Corruption

Corruption comes with a high cost. The price could be political, economical, social, and/or environmental. Politically, corruption is an obstacle to civil rule and the upholding the law. In a civil system, government offices and institutions could lose their authority and importance when found guilty of corruption. A society that gives room for corruption to prevail endangers the people that citizens and the system to the growth of democracy. Nigeria's subscription to the ideals of democracy and the concomitant political leadership that emanates from it is unable to flourish in a corrupt atmosphere.

In the area of finances and economics, corruption can lead to a weakened and diminished national wealth. It threatens public resources needed to fund gargantuan and massively uneconomical, prominent projects such as hydro-electric and gas turbine power plants along with the siting of crude oil refineries in locations that are not strategically viable where they have to be supplied with pipelines that cost billions of naira to procure and install.

The money embezzled by public officers, if utilized for the collective good of the people in the area of infrastructure, could have led to a massive uptake in human development capitol. This growth in human development capitol will lead to economical growth and thereby attract foreign investors.

On the social aspect, citizens have no trust on leaders and institutions. This also includes political leaders, which they believe are unrepentantly corrupt. To compound the issues of the society, the populace has developed nonchalant attitude and hatred for the respect of government rules, thus making the society weak.

Environment is not left out. Environmental rules and regulations, which will make for better living conditions, have been abandoned by those who are to enforce them. This results into natural resources such as crude oil, organic and inorganic minerals being exploited and therefore effecting the health of the citizens. Ironically, it is those projects that are markedly destructive and environmentally unfriendly that are given special attention by the government because they are simple avenues of ripping of and tacking advantage of the society of what ought to benefit all.

Corruption and Bribery

According to the European Treaty Series - No. 173 (1999) from the Council of Europe's Criminal Law Convention as correlated to corruption signifies that, "possible definitions have been discussed for a number of years in different fora but it has not been possible for the international community to agree on a common definition. Instead, international fora have preferred to concentrate on the definition of certain forms of corruption" (p. 1).

The most popular form of corruption is

bribery since it well-established. However, it is not the only one. Although the tangible phrasing of the meaning varies marginally, bribery is commonly distinct as the act of collecting and/or receiving gratification from an individual or organization to act in a manner you ought not to have acted if the bribe was not given. A lot of international legal frameworks use the phrase "corruption" as heading even though they tend to focus mainly on bribery, and excluding the other elements involved in corruption.

According to Cheng and Zaum (2012), scholars are showing their uneasiness towards the generalized use of the term 'corruption' and thereby creating a divergent view by scholars. The dissonance amongst the scholars in the field of International Relations cannot agree upon the weight in which the definition should be measured. While some argue that the definition is simple, others argue that the definition is complication, thus causing the social problems. The issue of the social problem is that while some believe that corruption focuses on public office, which makes it difficult to be applied to corporate or government institutions, others argue that this will make corruption difficult to be fought in sectors that are not public.

Corruption and Nigerian Society

The consequences of corruption on all aspects of the Nigerian society from cultural to political and economic to environmental are all overwhelming. This has been a cog in the circle of Nigeria's progress, as is exemplified by the modern-day situation in Nigeria.

Since the return of democracy social networks like the media, have uncovered and made known to the general public, instances of corruption on high scales. This has not led to reduction in corruption practices but rather a steady incline (Okonkwo, 2018). It is sad to know that all aspects of the Nigerian society have been severely eroded by corruption.

The situation described above made Preye and Weleayam (2011), to suggest that Nigerians are discouraged by this situation, and therefore, refuse to believe that honesty and integrity are worth exhibiting. Preye and Weleayam's (2011) theory hinges on the attitude of Nigerians in public offices, towards handling resources under their care.

The majority of the populace or the followership is also guilty of acquiescence to the lure and filthy gains of the corruption, as most openly subscribe to this misdemeanor in as much as there is personal gain and no immediate sanction for such benefit no matter how grievous the cost. Thus, corruption is found in the family, in all levels of institutions of learning, worship and congregation centers, government established area, security and business centers, political cycles, communal gathers, age group organizations, employment cycles, and all other aspects of national life. The corruptions described above have shown an increase over the years. It is these realities that exist in the contemporary Nigerian nation-state, where the construct and manifestation of the phenomenon of corruption is considered as a way of life.

During all these branches of corruption, the most destructive of all is political corruption. This is because the politicians and political gladiators determine, to a large extent, what goes on in Nigeria. The politicians and political elites allocate appropriate funds to all areas where funds are needed in the community. These allocations and how they are managed is responsible for the corruption within the society.

Corruption in the Presidency and Federal Executive Council

The ultimate political and governmental

position in Nigeria is presidency which has been entangled with many forms of corruption. Chief Olusegun Obasanjo was engaged in some corrupt scandals during his eight-year Presidency administration. The celebrated case involving Alhaji Atiku Abubakar, former Vice President, was charged and prosecuted for his involvement and role played in the criminal activities regarding the Petroleum Technology Development Fund (PTDF).

Furthermore, Obasanjo acquired shares in Transcorp Corporation by using his presidential rank and authority. In addition, he also used his power to convince the financially privileged to construct a private presidential library in the capital of his home state, Abeokuta. Moreover, during his eight-year term, Obasanjo budgeted $16 billion to be used for power generation. Unfortunately, these funds have not been discovered and located since there is still a limited power supply throughout Nigeria.

Alhaji Umaru Musa Yar'Adua succeeded Chief Olusegun Obasanjo in 2007. Due to the incidence of his persistent ill health, which eventually resulted in his death in office in 2010, the administration of Umaru Yar'Adua recorded a cleaner bill in terms of the low incidence of corruption in the presidency, though the virus ran a devastating course in the presidency and by extension, severely depleted the national coffers due to the unpatriotic and wantonly profligate activities of the apparatchiks of government that cashed in on the opportunity presented by the medical indisposition of late President Umar Yar'Adua to line their pockets and fatten their accounts with public funds. The late Umaru Yar'Adua was also said to have surrendered to the power of corrupt politicians who wanted a former Economic and Financial Crimes Commission (EFCC) chairman, Nuhu Ribadu out of office on the ground that he was obstructing their corrupt practices.

Just like Chief Obasanjo, the successor to Yar'Adua in the person of the easy-going and self-effacing Dr. Goodluck Jonathan was not left out of the polemics involving corruption. His administration was accused of various corrupt practices. He was said to have received a gift of a church building in his village from an Italian construction company. Many ministers under him such as the former Minister of Petroleum in the government, Mrs. Diezani Allison-Maduekwe, the former Aviation Minister, Princess Stella Adaeze Odua, and many others, were grossly accused of stealing billions of Naira.

Corruption in the Judiciary

The Nigerian judiciary has been entangled in an abundant amount of corrupt cases. If this is not checked it will bring the justice system and the justice administration to a standstill. Many judges and justices who were involved in the election petition tribunals became very rich and lived flamboyant lifestyles and display opulence which shows that they are not just millionaires, some people even have cause to believe that the higher ranking ones among them are billionaires.

It is worthy of note that election tribunals in Nigeria have become a source of illegal income and illegal revenue for judges who deliver justice based on the highest bidders. A close assessment of judges who have opportunities of presiding over or been members of election tribunals, reveals that most, at the conclusion of this crucial national assignment, suddenly become very wealthy beyond the known level of the remuneration of a sitting judge in the Nigerian judiciary.

The Nigerian judicial system is termed to be weak because of corruption. This is so because the judges are poorly remunerated. When such situations continue, the poor and

under privileges of society suffer from that weak judicial system. Again, there is absence of clear separation of power that exists between the judicial arm and the executive arm of government of Nigeria. This makes the later to exercise an undue advantage over the judiciary because the appointment of judges and the renumeration of judges and other official officers remain in the hands of the executives.

Lack of strong judicial system manifests unequitable, political, and economic distribution. This is responsible for the exercise of dominance of authority from larger ethnic groups over smaller ethnic groups.

For democracy to be sustained, a strong judicial system is imperative because it is generally accepted that the judiciary is the last hope of the civil populace in that the symbol of justice lies in the principle of rule of law which is premised on the acceptance of equality of all before the law. In the event of conflict, justice dispensed in the past is important in destroying the habits of oppression that has provided support for violence.

Nigeria and Anti-Corruption Statutes

A plethora of anti-corruption legislations exist in Nigeria at all levels of government. Both the Criminal Code and the Penal Code specifically prohibit, criminalize, and punish corruption and abuse of office. Other legislative efforts at curbing corruption are evidenced in the enactment of the following statutes (Alubo *et al* (eds.), 2009):

- Investigation of Assets (Public Officers and other Persons) Decree 1968;
- The Corrupt Practices Decree 1975;
- Public Officers (Special Provisions) Decree 1976;
- Miscellaneous Offence Act 1983;
- Recovery of Public Property Decree 1984;
- Bank Employees (Declaration of Assets) Decree 1986; and
- Promulgation of Mutual Assistance in Criminal Matters within the Commonwealth (Enactment and Enforcement) Act No 13 1988.

The legislations cited above were designed to make Nigeria domestic laws to have the force to fight corruption. The last legislation listed contains details on how to handle stolen proceeds recovered from the criminal. The National Drug Law Enforcement Agency (NDLEA) Act 1990 was the first promulgated law to deal with money laundering. Nigeria has a list of Acts for dealing with the corruption as it relates to domestic financial crimes. These Acts include:

- The Public Complaints Commission Act 1990;
- The Code of Conduct Bureau and Tribunal Act 1990;
- The Failed Bank (Recovery of Debts) and Financial Malpractices Act No. 18 of 1994;
- Failed Banks Act No. 16, of 1996;
- Foreign Exchange (Monitoring and Miscellaneous Provisions) Act 1995;
- Advanced Fees Fraud and other Related Offences Act No 13 of 1995;
- Banks and the Financial Institutions (Amendment) Act 2002;
- The Independent Corrupt Practices and Other Related Offences (ICPC) Act 2000; and
- Economic and Financial Crimes Commission (EFCC) Establishment Act 2004.

Even the Constitution of the Federation Republic of Nigeria 1999, in Chapter 2, Section 15 subsection 5 "The State shall abolish all corrupt practices and abuse of power" (Constitution of the Federal Republic of Nigeria,

1999). It is ironical, however, that regardless of the magnitude of available anti-corruption legislations in the country, corruption is yet to reduce in Nigeria. What is also worrisome is the fact that despite the apparent profusion and existence of corruption, statistics show an imaginably low rate of cases reported to the police.

African Instruments Against Corruption

As a continent, the plague of corruption has hit Africa hard. Widespread patterns of corruption can be tracked back to African colonial times, which displaced old methods of monitoring corruption in favour of colonial masters. A lot of anti-corruption initiatives are existent in Africa. The effectiveness of these initiatives is questionable because the continent is still worst hit of corruption as indicated by Transparency International (Transparency International, 2012).

On July 11, 2003 in Maputo, Mozambique, the African Union Convention on Preventing and Combating Corruption (AU Convention) was adopted and began operation around 2006. As of July 1, 2012, 45 states signed the Convention and 31 countries had ratified the Convention. A total of 11 Advisory Board members were to supervise and execute the implementation of the AU Convention. The main focus of the board is to set up its organizational structure since it was established in 2009.

An additional two-year period was provided for the Strategic Plan 2011-2015 for consolidation on building of the organizational efficiency of the AU Convention. In view of this, countries' reviews are not accepted but the Strategic Plan stated that the Advisory Board's role is that of strategic thinking. Monitoring is just one of the roles of the Advisory Board.

Drawing lessons from the UN is the 60s and 70s from the corruption discourse, which was correlated to the negotiations based on conduct for transnational corporations the Board has the role of collecting and analyzing information in order to conduct and review behavior of multi-national companies which are operational in the continent of Africa. The information analyzed was to be dispersed to national authorities (Amao, 2011).

It is apparent that activities of the Board will not imply a rigorous monitoring process such as the Group of States against Corruption (GRECO) or Organization for Economic Co-operation and Development (OECD) implementation procedures anywhere soon. A scholar has argued for the creation of an African Commission against Corruption, which would allow for pressure to be exerted on African leaders to probe cases of corruptions and which would be backed by UN investigators.

On August 14, 2001, the Southern African Development Community Protocol against Corruption (SADC Protocol, 2001) was enacted and became operational in 2005. The aim of the SADC Protocol is to cooperate states define corruption in order to enhance transnational boarder cooperation (SADC Protocol, 2001). This document deals with large numbers of corrupt issues, both in the private and government sectors (SADC Protocol, 2001). It also provides a clear list of decisions that states should "undertake" to prevent corruption (SADC Protocol, 2001). The Protocol was not efficient in its realization method. In order to be efficient, a committee was established in which individual states should report to bi-annually (SADC Protocol, 2001). It is sad to note that this mechanism has not been used.

On December 21, 2001, the Economic Community of West African States Protocol on the Fight against Corruption (ECOWAS Protocol)

was signed but has yet to be implemented and enforced. Similarly, to SADC Protocol, the ECOWAS Protocol has yet to be executed. The ECOWAS Protocol offers a variety of procedures such as conduct for government officials, governmental purchases, protection of those helping government fight corruption, NGO involvement and government officials' assets will be disclosed. Unlike the SADC Protocol, the ECOWAS also references freedom of press and the right to information. This is an uncommon and unique model of an anti-corruption system since it specifically mentions basic liberties and privileges.

International Anti-Corruption Statutes and Institutions

There is plethora of anti-corruption legislation at international level amongst which is the United Nations Convention Against Corruption 2004. This meeting demands the formation of anti-corruption agencies, lest they are already available, either as preventive anti-corruption body or as agents saddled with the responsibility of fight corruption through the engagement of law enforcement. The convention, which has addressed the negative impact of international corruption, is a remarkable law that is practical and provides for new methods for fighting corruption through international coexistence.

The above convention completely introduced new mechanisms that their leaders can make use of to rid their countries of corrupt practices and activities. On the aspect of preventive measures, the convention suggests that prevention of corruption is vital for making corrupt practices decline. Also, the convention advised leaders of countries to criminalize the most prevalent form of corruption in all sectors of the economy. In the same vain, the convention requires all member states who are signatory to the convention to return all illegal funds to the countries in which they were stolen (Holder, 2009).

Another international legislation is the United Nations General Assembly Model Treaty on Mutual Assistance in Criminal Matters. The treaty above was the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (approved by the General Assembly Resolution 40/32 of November 29, 1985) adopted on the case of Milan Plan of Action. The treaty stimulates that participates shall afford each other assistance on investigations or court actions in relation of infractions upon request when the matter under consideration falls within the jurisdiction of the party requesting for it.

The foregoing shows that corruption is a global menace deserving of global effort. According to one-time Attorney General of the United States of America, Eric Holder (2009):

> "We must work together to ensure that corrupt officials do not retain the illicit proceeds of their corruption. There is no gentle way to say it: when kleptocrats loot their nation's treasures, steal natural resources, and embezzle development aid, they condemn their nation, children to starvation and disease. In the face of this manifest injustice, asset recovery is a global imperative".

The United States is an example of a country that is determined to fight corruption globally and has shown commitment in ensuring and guaranteeing that corrupt heads of states do not escaped with stolen money from their countries by keeping it in the US (StAR, 2011). The US also ensures that leaders who keep stolen money in private vaults in the US, are prosecuted and the money is returned to their home country (StAR, 2011).

Also, the International Police Organization (INTERPOL), which is the only worldwide law enforcement agency, has been at the top of fighting corruption globally (Corruption, n.d.). The database of INTERPOL consists of details of suspected people who is presumed to have stolen money from their countries (Corruption, n.d.). Such information is used to initiate an action against them for the recovery of their stolen wealth.

The like of James Onanefe Ibori, the erstwhile Delta State Governor of Nigeria who fled the country when he was to be arrested for money laundering and corrupt enrichment and also had a case to answer in England, was fished out of his hiding place in United Arab Emirates (UAE) by INTERPOL. Following his arrest and deportation to the United Kingdom, he was subsequently tried and jailed for five years; if he had remained in Nigeria, he would have gone scot free.

Recently, multinational corporations are beginning to join a global movement to tackle corruption. The World Bank has been giving its unflinching support to the fight against corruption, after realizing that over 35% of the Bank's money spent on aid projects are lost through corruption (Ferguson, 2018). Transparency International, an international non-governmental organization (INGO) based in America with branches in over 70 countries is also taking an active part in the global participation against corruption as a crime.

In Europe, the Council of the European Union on Justice and Home Affairs is working on the belief that countries should actively pursue corruption as a crime against humanity and gross human rights violation. Across the globe, corruption is facing a serious and steady battle but in the words of Nuhu Ribadu, former EFCC boss, "when you fight corruption, it fights back" (FG Drops Charges Against Ribadu, 2010), reflects the resilience of the phenomenon by virtue of its beneficiaries who will stop at nothing, including having to maim or outrightly kill those who stand in their way in anti-corruption crusading. This shows that anti-corruption movement in Nigeria and anywhere else in the world is a herculean task.

Transparency International

Established in 1993 by a previous World Bank Director and headquartered in Berlin, Germany, INGO known as Transparency International (TI) has been a leading influence behind the universal fight against corruption. Its prominent corruption monitoring and correction means is the Corruption Perception Index (CPI).

The CPI rates countries using the apparent level of corruption, based on opinions carried out amongst, to a large extent, international businesspeople, and experts (mostly expatriates). A total of 144 Household Surveys have been concluded as of 2002. The perception of international businesspeople and experts do not seem to deviate substantially from that of the local population though they are not necessarily identical (Thompson and Shah, 2005).

Scholars in the field of corruption have disagreed that the standards by which TI carry out corruption rankings is not flawless because in their thinking, the outcome of the result may not reflect the true amount of corruption. In the same vain the information that CPI analyzes is received from various channels, which can possibly render the definitive rating obfuscated (Thompson and Shah, 2005). Every year the participating countries vary since the CPI ranking is based on adequate and efficient data. Unfortunately, the comparison amongst the country's yearly rankings is undependable given the variables used to compile the ranks.

Scholars from emerging states have kicked against the ways and methods in which CPI evaluates corruption rankings according to Western standards of corruption. According to this school of thoughts, the scoreboards only put countries of cultivating states against each other and do not help them to fight corruption. However, this scores from CPI are quoted by publications internationally to stigmatize the effected countries.

Additionally, TI also publishes a Bribe Payers Index (BPI) and a Global Corruption Barometer (GCB). While the GCB is only based on 90,000 household surveys, the number is insignificant as a fraction of a whole to ascertain an accurate result. The trivial and insufficient number of surveyed households makes the GCB more limited than the CPI. On the other hand, the BPI base its ranking on the number of companies that are perceived to have the capacity to give bribes abroad. The BPI survey is based on business owners who deal with international companies. This method of carrying out a survey that will label a country corrupt or not corrupt, is grossly unreliable.

Obtaining data for CPI and BPI is compiled in different means which include phone calls, emails, interviews, etc. The composite findings relate disproportionally to data for urban areas as compared to semi-rural and rural areas. Critics have argued that interviewing firms may lead to biased results, as firms will often minimize their willingness to pay bribes abroad when completing TI surveys.

In 2011 the Netherlands was ranked as the 7th corrupt country, out of the 183 countries evaluated. The GCB indicated that from all households surveyed, 2% admitted having paid a bribe in 2010 and 85% deemed the government's efforts to combat corruption to be ineffective. In addition, the GCB found that corporate businesses and the organized private sector were the most corrupt sector. Belgium received the 19th position in the 2011 CPI ranking.

Also worrying is the poor ranking on judicial independence, where for example Belgium is ranked as the 29th country out of 142. On the other hand, The Netherlands fares better with a 6th position. Enforcement of the OECD Convention by Belgian authorities is labeled moderate. The Netherlands received the same score of moderate enforcement, though the OECD reports concerning the Netherlands are more positive than those in Belgium. One study found that once criminal prosecutions on allegations of corrupt practices were instituted in the Netherlands, 9 out of 10 of such prosecutions led to a criminal conviction (de Graaf, 2007).

Applicability of International Treaties on Corruption in Nigeria

The Nigeria Constitution recognizes the place of International Law in regulating the activities of its citizens. Section 12 subsections 1 and 2 of the Constitution of the Federal Republic of Nigeria (1999) as amended provides that:

> "No treaty between the federation and other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly. The National Assembly may make laws for the federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty" (p. 23).

Nigeria is a dualist state by inclusion of the provision of Section 12 of the Nigeria Constitution. However, Nigeria has a notorious track record of endorsing or approving

international treaties and doing practically nothing to execute and fulfill them. Numerous international contracts are immobile in different ministries, department, and bureaus of the government all over the country.

Theoretical Framework

Having discussed corruption and its domestic and international legal context, we can now turn to how different theories of IR have explained the (in)effectiveness of intercontinental law as an instrument of domestic shift. The theories reviewed here reflect different causal pathways that can be found in the three hypotheses presented in Chapter 1. The first to be discussed here, liberalism, is embedded in our understandings of modern democracy. It is denoted by a prevalence of the term 'liberal democracy' in most western countries and other emerging democracies all around the world. Meiser (2018) avers that liberalism as a theory of IR is anchored on the notion of the inalienable rights of the individual to 'life, liberty and property' and these are the reasons for the existence of governments. This, therefore, prioritizes the well being of the individual as a pivot in determining a just political system. The preoccupation of the liberal approach to IR is the existence and (re)scrutiny of institutions that guarantee the freedom of the individual by curtailing the excesses of political power. The policy directions and activities of a state can have immense influence on the liberty of its citizens; the liberal theory therefore concerns itself with a holistic examination of governmental policies as it affects its citizens (both home and abroad).

Badie, Berg-Schlosser and Morlino (2011) posit that liberalism is advanced by the notions of "individual freedom, politics, participation, private property and equality of opportunity" (p. 1434). All these point towards a guarantee of the freedom of the individual in a polity governed by laws that are not inimical to the freedom of the entity. Badie, Berg-Schlosser and Morlino (2011) opined that the standard form of liberalism is denoted by a dedication to the following institutionalized norms:

> "citizens must possess judicial equality and other fundamental civil rights such as freedom of religion and the press, states effectively draw their sovereignty from a representative legislature who derive their authority from the electorate, the economy must rest on the recognition of the right to private enterprise including the right to ownership of property and private means of production and economic decisions should be predominated by forces of demand and supply and should be free from the control of bureaucracies". (p. 1434)

As a social school of thought, Liberalism postulates the notion of sovereignty amongst states; that a state is not subject to the mandate and power of another state nor should it be subject to internal authorities like monarchies, the military, or bureaucracies. The state should legitimately draw its authority from the powers bestowed on it by its citizens. Citizens are required to be free from arbitrary state powers; political freedom is a guarantee norm while constitutional democracy is advanced.

Liberalism also emphasizes the *cooperation* amongst states on dealing with issues collectively since no state can live in isolation. However, the sovereignty of states is not subjugated. International Law is seen as an instrument that can facilitate international cooperation and therefore law is viewed as impactful. Liberalism also helps shed light on the question of cooperation because it allows for us to explore how non-governmental actors matter

in international politics and how domestic interest groups can constitute state preferences (Moravcsik, 1997).

Liberalism's focus on inter-state cooperation perhaps provides a scaffold for better comprehending Nigeria's fight against corruption as seen in the cooperation enjoyed from the UK and UAE in the arrest, prosecution, conviction, jailing and repatriation of stolen money by James Ibori and Joshua Dariye. The details of this case are presented and explained in Chapter 3. In fact, if cooperation proves to be an effective mechanism to address corruption in Nigeria, then there will be empirical support for H_3.

The coercive model can be viewed as the realist model as IR realism sees the effectiveness of international law as a reflection of state power. Powerful states enforce the law on less powerful states (Morgenthau, Thompson, & Clinton, 2005). Here we would expect to see Nigeria's domestic anti-corruption efforts as largely occurring in response to external pressure, and in the absence of international pressure, we would expect to see less compliance with international legal frameworks on corruption. Basically, the theory of realism centers around power and security therefore, states continuously seek power and security because states exist on their own. This is so because states seek autonomy because other states are not trusted. Realism seeks to be equally self-reliant in a world that is hazardous because a friend today could be the worst enemy tomorrow. Realism advocates power or the use of force. The theory of realism is relevant to this paper because the use of coercion in the implementation of international law relies on the policy of state or international non-governmental organizations exercising its power on erring state in the compliance of agreed policies. This theory accounts for the USA attaching conditions before the repatriation of the money stolen by Sani Abacha, a former Head of State of Nigeria. Similarly, in a recent corruption case involving a former governor of Abia State of Nigeria, Orji Uzor Kalu, was convicted by Court of Appeal to have allegedly stolen about 7 billion Naira and was sentenced to 13 years imprisonment. Kalu appealed the case and the Supreme Court discharged and acquitted him of his crime because there was no external force to ensure justice was served. The details of this case can be found in Chapter 3 of this thesis. It is clear that for anti-corruption law to be effective domestically, Nigeria needs the support of foreign authorities to have the willpower of enforcing anti-corruption laws because the country lacks the political will to bring to justice those who are corrupt. In a scenario in which a coercion model deems helpful in decreasing corruption in Nigeria, there would be backing for H_1.

The third model reflects assumptions drawn from IR constructivism (Finnemore & Sikkink, 1998). Here, it is assumed that rather than a reflection of power or international cooperation among a community of democratic states that international law matters because states can be persuaded into accepting new norms of behavior. Theys (2018) averts "that states can have multiple identities that are socially constructed through interaction with other actors" (p. 2). These identities influence states differently while small states focus on survival, big states focus on global dominance, politically, militarily, and economically. The main thrust of constructivism is that relations do not exist on their own because identities are changeable through interaction and communication. Constructivism argues that social practices lead to cooperation and therefore international politics is a social construct.

Here we would look to see whether transnational advocacy networks played a significant role. The theory of constructivism is relevant in this because it implores persuasion and shaming as ways of making states comply with international norms and behaviors. International non-governmental organizations such as TI and global institutions such as UN and its agencies use persuasion and stigmatization to influence states behaviors. This is a causal mechanism for the implementation of international law as discussed within this thesis. However, TI played a significant role in making Nigeria to establish anti-corruption agencies in 2001 and 2003, respectively, by consistently publishing how corrupt Nigeria is since 1996 to date. It is evident that persuasion played a vital role in Nigeria's fight against corruption which gives credence to H_2.

This chapter of the research concentrates on a detailed review of existing related literature as well as those that have inferential relationship with the topic of this study. A second and critical aspect of this chapter is an elaborate and comprehensive discussion of the framework for analysis of the research. Here, the theoretical framework is established using liberalism as a theory of international relations to set the basis for the discussion on the applicability of the principles of 'coercion, persuasion, and cooperation' under the instrumentality of international law as advanced by international governmental and international non-governmental organizations in the efforts at eradicating corruption in Nigeria.

The next chapter shall focus on the first case study, which is corruption in the executive arm of government of Nigeria.

Chapter 3: Corruption in Nigeria's Executive Arm of Government

Introduction

The previous chapter of this thesis focused on literature review and theoretical framework. However, this chapter shall explore critically corruption in the Nigeria's executive arm of government. The chapter presents cases of corruption of executive officers getting away with corruption domestically, but some being made to face consequences abroad for the same offenses for which the Nigerian judiciary had dismissed them.

Nigeria has adopted different measures in fighting corruption. These measures include efforts of government through law and traditional means which has been advocating public sectors reform in the area of procurement and financial management. Various administrators have enacted different laws and established various bureaus charged with fighting corruption.

Transparency and legal penalties are at the core and are crucially significant in the fight against corruption in Nigeria as it is elsewhere; however, more innovative, incisive and complementary approaches of holistic composition and operationalization are needed to foster a comprehensive paradigm and socio-psychological movement from the attitude of corruption to an attitude abhors corruption at all levels of societal positions.

Former Nigerian President, Chief Olusegun Obasanjo had presented a bill to the National Assembly tagged "The Prohibition and Punishment of Bribery, Corruption, And Other Related Offences Bill of 1999" during his term in office. While it is believed that the administration of Obasanjo actually initiated the first and most perilous shot at corruption,

the fight against corruption appears, to be more than in other administration, the major focus of the Muhammadu Buhari civilian regime since May 29, 2015, especially having featured as the major plank on which his other campaign promises rested.

The abuse of public office for individual gains, is generally accepted as the definition of corruption. In Nigeria, corruption is brazenly prevalent at all levels of government and other decentralized centres of government. Just as the area covered by corruption is wide, the definition, meaning and scope of corruption is also broadened to accommodate the misuse of offices for personal interests. It is basically the illegitimate use of public power or position to benefit a private interest (Morris, 1991; Uzochukwu, 2018).

Senior (2006) opined that corruption is an act to privately give goods or services to another, so that the giver can influence the receiver to benefit the giver from corrupt booties. Corruption encompasses the singular abuse of a government official in the way that embezzlement, misappropriation, cronyism and favouritism become part of a privileged public officer.

Corruption stance from all offices of government and sometimes even private offices, which could be petty or grand, and organized or unorganized. Corruption breads criminal activities which include fraud, stealing, extortion, and money laundering. The list is never ending. However, in order to understand the concept of corruption clearly, it is necessary to distinguished between crime and corruption analytically. While corruption is a crime within the framework of the *corpus juris* in Nigeria, the reverse is not necessarily so. Crime is thus wider than and encompasses corruption as a phenomenon. Globally, the single hindrance to economic and social development is corruption (The UNODC/NBS report on corruption, 2017).

Political corruption is the most rampant form of corruption within Nigeria. This kind of corruption is experienced when political offices responsible for making and implementing laws, are corrupt themselves beyond redemption. Political corruption also takes place when the executive and legislators make laws for the purposes of such laws benefiting them at the detriment and disadvantage of the masses. These laws effect the way decisions are made in a given country. It gives room for manipulation and distorts rules and processing of governmental institutions. It is the illegitimate use of bestowed authority for purposes other than what it is meant for.

Bureaucratic corruption on the other hand arises in public administration particularly at the execution of policies. This nature of corruption is sometimes referred to as 'petty' or 'low level' corruption. It is the kind of corruption that is confronted by citizens daily in public and private offices, which has become more or less routine and unconsciously accepted as 'normal' even though all the parties involved in it at every point in time know 'consciously' that it is wrong.

This 'obvious wrong' in local, state, regional and national bureaucratic dealings have become an inglorious aspect of the national character of the Nigerian citizen. However, it is more social class-specific because of its operational spectrum and key elements are situated in the policy execution levels of public, and in some cases, private organization administration. Indeed, it has been posited that poor in the society are most likely to be effected by corruption more than the privileged and elite, because the poor rely heavily on the social amenities provided to them by the government (Justesen & Bjørnskov, 2014).

Overview of Corruption in Nigeria's Government

Corruption in Nigeria began in the 1950s during colonial rule in the country, when the first committee of investigation was arranged to investigate the affairs of the African Continental Bank with relation to Dr. Nnamdi Azikiwe, who at this time was a Minister in the Eastern Region and was known to have had extensive business interest before he took up public office.

Azikiwe was suspected of abusing his status and therefore was investigated, found guilty of using public funds to sponsor the shares within a local bank. The investigation commission asked him to transfer the ownership of the bank to the eastern government of Nigeria (Nwankwo, 1999).

In the early 1960s, late Chief Obafemi Awolowo was investigated by the Commission of Inquiry to ascertain his relationship with a private property company outfit called National Investment and Property Company. This company alleged that the western government of Nigeria, headed by Awolowo, owed its £7,200:00 pounds. The Commission of Inquiry was settled with the responsibility of ascertaining the relationship between Awolowo and the company. In his ruling, Justice G. B. Coker found that Awolowo had interest in the company and was using the company to defraud the government. The properties of the entire company were taken over and controlled by the government and Awolowo was indicted.

In the administration of Gowon, Nigeria head of state from 1966-1975, corruption was on the increase. A classical case of corruption was experienced in the cement scandal of 1974, in which Nigeria placed order for cement from the United States, Romania, and Union of Soviet Socialist Republic (USSR). The price of cement was inflated by corrupted Nigerians. A Commission of Inquiry was established to investigate the inflation of prices of the cement that was ordered. The panel found the permanent secretary and other workers of the Ministry of Defense guilty and therefore relieved of their duties, but criminal charges were never brought against them.

The government of Gowon was overthrown through a coup de 'tat in 1975 by General Murtala Mohammed on the grounds that the previous administration was corrupt with reckless abandonment on assumption of office as the head of state of Nigeria (Lawal & Tobi, 2006). He set up an investigative panel to probe the immediate past government's spending. Twelve governors and commissioners were invested by the panel out of which ten were found guilty and had their properties confiscated (Lawal & Tobi, 2006).

Upon the assassination of General Murtala Mohammed, General Olusegun Obasanjo became the head of state because he was the next in line. He ruled Nigeria from 1979-1983 (Lawal and Tobi, 2006). By 1983, he handed his power over to the first democratically elected government of Alhaji Shehu Shagari (Lawal & Tobi, 2006). Shagari's administration investigated Obasanjo's administration and found a total of ₦2.8 billion was kept in a private vault in the United Kingdom for three years(Lawal & Tobi, 2006). The interest on that money was shared amongst individuals. The panel, however, asked for the return of the said amount, which was returned without the interest (Lawal & Tobi, 2006).

The Shagari's administration was alleged to have been extremely corrupt because his administration depleted the external reserve of Nigeria indiscriminately (Lawal and Tobi, 2006). This according to Major-General Muhammadu Buhari, led to his overthrowing the government. The Buhari's administration came with a promise

of wiping out corruption in Nigeria completely (Lawal & Tobi, 2006). In order to achieve this, he instituted a disciplinary institution called War Against Indiscipline (WAI) (Lawal & Tobi, 2006). On assumption of office in 1984, Buhari set up tribunals to investigate both handlers of the federal and state governments (Lawal & Tobi, 2006). The tribunals found 51 politicians guilty and a refund order was placed on them to return their illegal wealth to the coffers of Nigeria's government (Lawal & Tobi, 2006).

On August 27, 1985 General Ibrahim Babangida toppled the administration of Buhari because according to Babangida, the anti-corruption crusade of Buhari showed no sign of commitment to fighting corruption. Instead, the regime plundered Nigeria further into corruption (Lawal & Tobi, 2006). Babangida ruled Nigeria for eight years. Lawal and Tobi (2006), explain that the regime of Babangida is the most characterized of corrupt practices in the history of Nigeria. Lawal and Tobi (2006) described Babangida's regime as "eight years of kleptocratic rule characterized by corrupt practices of different shades" (p. 646). Below are some of the highlights of General Babangida's corrupt practices:

- "$2 billion Gulf war windfall in 1991
- 30% of oil revenue directed to frivolous uses throughout the time
- Huge extra-budgetary spending: 1989 = ₦5.3 billion; 1990 = ₦23.4 billion; 1991 = ₦35 billion; 1992 = ₦44.2 billion; 1993 (by August) = ₦59 billion.
- $200 million siphoned from Aluminum Smelter project
- ₦400 million wasted on Better Life Project
- Colossal corruption at the NNPC; for example, $101 million for the purchase of strategic storage facilities" (Lawal & Tobi, 2006, p. 646).

The Okigbo panel instituted by the General Sani Abacha junta that kicked out the feeble and tottering Interim Government contraption that was concocted by General Babangida when he 'stepped aside' on August 27, 1993 following the self-inflicted crisis of the termination of the June 12, 1993 elections. The panel implicated him and the Central Bank Governor of flippant and criminal expending. The Abacha junta then earned the inglorious reputation of trying to 'out steal and surpass the corruption record' of the previous military regimes. Babangida was alleged to have embezzled $1.13 billion and £413 million British sterling, in addition to the $386.2 million swindled from overestimated contracts (Fagbadebo, 2007).

The replacement regime of General Abdulsalami Abubakar, which was sworn in to pilot the affairs of the country following the sudden and inexplicable death of the maximum dictator, General Sani Abacha on June 8, 1998 cannot equally be pardoned of sleaze (Amzee, 2015). A panel of inquiry led by Christopher Kolade to review government expenses related to contracts, licenses and appointments under Abacha administration found astonishing results of corruption (Amzee, 2015).

The panel's report revealed that over 4000 contracts, over 570 licenses, over 800 appointments, over 760 awards and over 100 approvals were made in a duration of five months of the regime's tenure (Amzee, 2015). All of these contracts, licenses and appointments ran foul of the budget (Amzee, 2015). This simply means that some individuals siphoned billions of Naira. Again, the panel revealed that the foreign reserve of Nigeria which was $7.6 billion in 1998 was depleted to $3.8 billion by May 1999 (Amzee, 2015).

The panel submitted that the 4072

contracts cost the country ₦635.62 billion as against N88 billion budgeted for in 1998 budget. The panel also revealed the depletion of the foreign reserve which, as at the end of 1998 stood at $7.6 billion, but shrank to $3.8 billion dollar by May 1999 (Amzee, 2015).

The Fourth Republic, which was instituted with the handover of power by the military regime of General Abdusalami Abubakar to the civilian administration of Chief Olusegun Obasanjo on May 29, 1999 "has also been bedeviled by all kinds of social vices, particularly perjury and corruption. These include bribes for budget approval by the National Assembly, payment of huge amount of money before being confirmed as ministerial nominees by the legislators, outright embezzlement and looting of public funds and the use of excessive money during election campaigns, etc." (Obasanjo, 1999).

The legislative arm of government is not left out in the issue of corruption. The corruption of the law makers ranges from certificate forgery to actual collection of money in exchange of favours. The case of the speaker of the lower chambers (House of Representatives) of the national assembly, Alhaji Salisu Buhari, is a good example (Amzee, 2015). He was removed out of office on the grounds of certificate forgery. The upper chambers (House of Senate) is also not left out. The former senate president, Chuba Okadigbo, was removed out of office for awarding contracts to show signs of favouritism to those who were loyal to him (Amzee, 2015). His Deputy, Haruna Abubakar, was also guilty of spending large sums of money to celebrate Sallah (a yearly Muslim celebration) which he could not account for the source (Amzee, 2015).

Adolphus Wabara who took over Okadigbo as the Senate President was impeached because he collected ₦55 million bribe from the former minister of education, Prof. Fabian Osuji, to inflate the education budget (Amzee, 2015). The minister was also sacked by the administration of Obasanjo (Amzee, 2015).

Tafa Balogun was alleged to have collected ₦250 million from Dr. Chinwoke Mbadinuju (former governor of Anambra Slate) to cover up a case murder of a chairman of the Nigerian Bar Association (Anambra State) Chapter and his wife. Also, over ₦17 billion was retrieved from Balogun by the Economic and Financial Crimes Commission (EFCC) (Amzee, 2015). Although he was arrested, he was never really punished for his many offences.

Former governors such as Danjuma Goje, Gbenga Daniel and Alao Akala were just apprehended by the EFCC for corruption. Goje was accused of fraud up to the tune of ₦37.9 billion in loans taken from different banks which defrayment was supposed to last until 2015 (Bamidele, 2011). Alao Akala who governed Oyo State was indicted for fraud amounting to ₦25 billion, while Daniel was accused of misappropriating ₦58 billion (Bamidele, 2011).

It can de deduced from the foregoing that despite the existence and knowledge of international statutes against corruption, it still remains the bane of development of Nigeria, especially in the realm of politics as the arena is seen as a money making venture for public office holders and their cronies to accumulate prosperity at the sacrifice of the state and its inhabitants. However, of relevance are cases of corruption where international law interacted with domestic laws to punish the corrupt. The cases below have such linkages.

Cooperation between Nigeria and various international countries and organizations led to the some of the findings and reclamation of endowments and belongings to the Nigerian people. Of important notice is the agreement

reached between the Nigerian government and the UK in 2006. The MoU between both countries state, "criminal assets stolen in Nigeria and seized in the UK or within its jurisdictions, are to be repatriated to Nigeria" (Goodwill, 2016). Signing the agreement, Robert Goodwill, the then UK immigration minister stated that:

> "Crimes of this sort are not confined to our own borders and it is therefore essential that we work with international partners to tackle it. This agreement spells out how the UK and Nigeria will ensure that criminal finances that have been misappropriated from Nigeria will be returned for the benefit of the Nigerian people".

With its creation of the Global Forum for Asset Recovery, the UK has contributed immensely to Nigeria's fight for the repatriation of stolen assets and monies that should have largely benefited the Nigerian people.

This led to the recovering of assets illegally acquired by Joshua Dariye, former governor of Plateau state, Nigeria. Mr. Dariye was forced to return $250,000 USD to the coffers of Plateau state. He has also been sentenced by a Nigerian court and condemned to serve 14 years in jail after evidence were made available to the Nigerian government by the UK of Mr. Dariye's illegal acquisition of assets. A further $2.8 M USD of Mr. Dariye's illegal acquisition has been frozen by a court in the UK and it is expected to be repatriated to Nigeria once legal hurdles have been cleared.

Also, ex-governor of Delta State, Mr. James Ibori, has been investigated by the UK police and sentenced to 13 years in jail by a local judge in London for siphoning public finances as a governor of his state from 1999 to 2007. According to PremiumTimesNG.com, an online newspaper, Ibori was sentenced for stealing at least $250 million US dollars of Delta State's public funds while he was governor for eight years (Premium Times, 2015). The conviction of James Ibori in London became a landmark case because he was the very first governor of Nigeria to be jailed for corruption. This was possible because of the cooperation between Nigeria and the UK governments. Had the case been tried in Nigeria, chances are he would not have been convicted. The recent case of Orji Uzor Kalu supports the fact that Nigerian courts are not capable of convicting political big wings. On Friday, May 8, 2020 the Supreme Court of Nigeria nullified his sentence to serve 12 years for corrupt practices and laundering money. As a governor, he was convicted and sentenced with others for purportedly robbing his state of public funds worth N7.1 billion, on December 5, 2019. This trial lasted for 12 years. However, his sentence was nullified by Supreme Court on the premise that the trial judge Justice Mohammed Idris who handed down the judgment, lacked the power to give the verdict based on the fact that he was already promoted from a high court Judge to Justice of the appeal court (Adesomoju, 2018). The nullification by the Supreme Court is not based on the principle that he is not corrupt, but that the trial Judge lacks power because he has been promoted. In a well-developed judicial system, such as the UK, politicians are unable to get away with corrupt activities such as laundering. Whereas in Nigeria, in which political trials concerning the same or similar crimes are committed, politicians are excused or dismissed. James Ibori was convicted because his trial did not take place in Nigeria, unlike Orji Uzor Kalu.

Therefore, as we can see from Dariye's case, international cooperation proved effective through supportive efforts of states or international non-governmental organizations. These efforts helped the Nigerian government to access the stolen funds of Dariye from the UK.

The late General Sani Abacha, former head of Nigeria, ruled for six years and is alleged to have been the most corrupt leader in Nigeria (How British Banks are Complicit in Nigerian Corruption, 2010). He recklessly laundered over one trillion dollars to different banks in the UK, Switzerland, United States, and others (How British Banks are Complicit in Nigerian Corruption, 2010). Following the Abacha scandal, Nigeria improved on its anti-corruption efforts to gain political relevance within and outside Africa. This effort was birthed because of pressure (persuasion) from the Financial Action Task Force (FATF), which establishes the universal rules related to anti-money laundering, and Transparency International (TI), which is saddled with the responsibility of combating global corruption through stigmatization. In 2001, Nigeria was enlisted on the FATF list of countries not conforming to the standards of FATF. As a result, Nigeria had a terrible global image (How British Banks are Complicit in Nigerian Corruption, 2010).

The pressure of FATF and TI on Nigeria led to the formation of an anti-corruption institute called the Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices and Other Related Matters Commission (ICPC). These institutes' obligations and duties of fighting corruption within and surrounding Nigeria comes with a heavy burden and responsibility. Nigeria was eliminated from FATF list in 2006 because of the establishment of anti-corruption institutes.

The persuasion by FATF and TI led to the establishment EFCC and ICPC. In Nigeria's history, this was the first time a conscientious effort was made to fight corruption truthfully.

International organizations and countries do not only limit themselves to cooperating with countries in need of repatriated funds or loans, but also go ahead to subtly (or otherwise) persuade these countries to do their bidding before much needed funds are released. The debt-trap diplomacy that is often attributed to China has come to be applied by the International Monetary Fund (IMF) in a less intrusive manner. The conditions that IMF spelt out for granting Nigeria's COVID-19 emergency relief loan request suggest that the IMF covertly disregards Nigeria's economic independence. In April 2020, the IMF approved a 'contributory loan' request for Nigeria to the tune of $3.5 B USD, through its definition and specification of terms, it will forcefully persuade the government to agree to its conditions. Overtime, the IMF has persuaded the federal government of Nigeria to remove fuel subsidies and increase electricity tariffs, these loan-granting conditions have continuously been considered by many as a way of making Nigeria do the right thing hence government officials enrich themselves through fuel subsidies. The IMF and its sister organization, The World Bank, are seen by most Nigerians as international symbols of observers helping to shape the decisions of the Nigerian government.

The conditions attached by the US on the return of looted funds to Nigeria succinctly suggest that Nigerian leaders are not trusted to efficiently manage the funds. General Sani Abacha (deceased) once ruled Nigeria with an iron fist and stashed in western banks assets belonging to Nigeria under his family name. His demise revealed a plethora of information on the extent to which he and his colleagues and associates looted and robbed the resources of Nigeria leading to successive democratic governments in Nigeria requesting that the monies be returned. The US has tied the return of $3.07 M USD to Nigeria's investing the money in three major projects that span the three major sub regions of Nigeria. These projects include;

the completion of the Lagos-Ibadan express way, stationed in the western part of Nigeria, the construction of a second Niger bridge (eastern Nigeria) and the completion of the Abuja-Kano road (northern Nigeria) (Ajeluorou *et al*, 2020). The concerns of the US are stem from claims of massive corruption in the Nigerian government and its intentions are seen laudable. The financial institutions who accepted the funds from Abacha and his cronies may be perceived to have aided and abetted in the act of corruption by not carrying out due diligence to know the origins of the funds. However, the US placing conditions for the release of the funds is coercising the Nigeria government against embezzling the funds again. Therefore, this act should be seen as an agent of cooperation and development.

Adopting a historical and analytical approach, Chapter 3 explores the evolution of corruption in the executive arm of government in Nigeria, commencing from way back in the colonial era long before Nigeria set out on the path of self-determination. It will be established in this chapter that corruption as a phenomenon bedeviling the realm is deep-entrenched in the formative nucleus of all administrations that have governed the country – be they civilian or military – and that in such situation, it will be very difficult if not almost impossible, to eradicate the scourge from the national ethos and management of the polity.

The chapter also examines a few cases of corruption of executive officers of Nigeria and how the judiciary allows them to get away with their crimes. The cases of former governors James Ibori and Joshua Dariye were different because they were tired in the UK. These cases proved the efficiency of international law being the best law fighting corruption in Nigeria because the laws of Nigeria are weak and there is no willingness on the part of law makers and the handlers of Nigeria to amend the laws because it favors them. In the chapter, the hypothesis was clearly proven with cases that clearly support these claims.

The upcoming chapter will examine the judiciary of Nigeria and explore the corrupt activities that exist in this arm.

Chapter 4: Corruption in Nigeria - The Case of The Judiciary

Introduction

The previous chapter explored the executive arm of government of Nigeria and critically examined the corrupt practices that exists in that arm. This chapter shall explore the corruption that exists in the judiciary which makes conviction of corrupt officers almost impossible in Nigeria.

The judiciary is made up of a judicial system which comprises of judges, magistrates, registrars, bailiffs, lawyers and other officers who are assigned the task of ensuring a smooth operation of the courts, resolution of conflicts and disputes, and an unhindered dispensation of justice. A judicial officer, as a member of the judiciary, must always be seen to uphold the law and be objective in the contribution to the dispensation of justice.

In any democratic dispensation where there is the rule of law, it is the responsibility of the judicial officer to decipher and translate the constitution and other laws in order to retain and sustain order and law. Consequently, the credibility of a political system is usually assessed based on the extent to which the judicial arm can hold the 'scale of justice' over and above the other arms of government.

The relevance of an autonomous and knowledgeable judicial system that is impartial,

efficient, and reliable cannot then be over-emphasized. This requires a strict compliance with objective criteria for the employment and sacking of judges and other judicial officers at all levels, sufficient pay, guarantee of tenure and freedom from interference by both the executive and legislative arms of government both in direct and indirect terms. This is in realization of the trite fact that unless the judiciary is independent, it will neither be able to pass judgments impartially, nor defend the citizens against wrongful use of power by an unpopular administration.

To be specific, the challenges of corruption in this arm of government that is to uphold the rule of law is manifest in the allegations that patently corrupt and incapable persons are routinely appointed into the superior courts, as a result of which they have caused significant damage to the dignity and image of the judiciary by their conduct and judicial pronouncements.

In the recent past – that is about two years till date in this current civilian administration, the media has been awash with news of arrests and prosecution of judges accused of corruption and receiving of bribes and other favours, especially in the course of adjudication of high profile cases such as election petitions, corruption cases, and the trial of other politically exposed litigants, etc.

Overview of Corruption in Nigeria's Judiciary

It is noteworthy that allegations of corruption against judicial officers, especially when substantiated, strikes at the very root of Nigerian democracy since the judiciary is saddled with the duties of preserving the rule of law and carrying out the task of dispensation of justice. The management of justice makes the public to detest corruption, while making judicial determinations and decisions. The result as reported by the National Bureau of Statistics (NBS, 2017) is that "not many of the businesspeople turned to the justice system to resolve their disputes anyway".

Data from Transparency International (TI) and other non-governmental organizations – be they local, regional, national, or international – suggest that corruption in the judiciary is indeed predominant in Nigeria and has been institutionalized. Thus, some judges could use discretion to either allow or exclude evidence that is relevant in a case having in mind to justify the guilt or acquittal of a potential criminal. Staff of the judiciary may manipulate records in order obfuscate a case in which interest has been expressed. This has led to very embarrassing situations, such as the conviction of former Governor of Delta State, James Ibori, by a UK court – having been acquitted by a Nigerian Court eight years prior to the conviction (FG To Re-open Ex-Governor Ibori's Case, 2017).

TI has equally noted that in states like Nigeria, in which the prosecution has a near autonomy of making criminal cases before the court, a questionable law officer can or may effectively protect an accused person by blocking off all avenues for prosecution. Classic examples include the curious and sudden withdrawal of all allegations against Nuhu Ribadu, a one-time Chairman of EFCC, at the Code of Conduct Bureau (CCB) by the then Minister of Justice on issues that bordered on assets declaration (FG Drops Charges Against Ribadu, 2010).

Another celebrated case that experienced the sudden abandonment of all corruption charges is that against the present Emir of Kano, Sanusi Lamido Sanusi, by the Federal Government the moment he was crowned Emir in 2014, in reaction to which the former Sanusi – the former Central Bank Governor

– withdrew the suit he had filed against the Federal Government at the National Industrial Court over his 'unlawful suspension' from office as CBN Governor (Sanusi's Suspension, 2014).

Before then, the National Bureau of Statistics had published the first Crime and Corruption Survey on July 1, 2010 in Abuja (NBS, 2017). In that survey it was reported that the businessmen and businesswomen in Nigeria, were deeply involved in corruption. By extension, it was equally found out that judicial corruption frustrates businesses. While the executive has set up anti-graft agencies such as ICPC and EFCC to assist in stamping out this menace, most of the cases that are taken to court by these agencies equally suffer undue delays that make success a mirage.

Another major problem that has encouraged judicial corruption in Nigeria is the obvious weakness of the National Judicial Council (NJC) agency which is provided for under the enabling law. A cursory examination of Paragraph 20 of the Third Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and which is the enabling law on the basis of which the NJC was created, would reveal that the appointment of senior judicial officers, members of judicial council, and the determination of their tenure in office are all at the discretion of the Chief Justice of the Federation. This makes judicial officers vulnerable and loyal to the Chief Justice of the Federation. This accounts for a huge corruption in the judiciary.

Given the enormity of such powers, there is a strong likelihood of its abuse by a sitting Chief Justice at any point in time, who may use such position in pursuit of a corrupt or personal agenda, and instances like that have been noted in Nigeria. Thus, the provision of paragraph 20 of the third schedule of the 1999 Constitution as amended has made successive Chief Justice of Nigeria (CJN) to exploit and manipulate the NJC to suit their selfish interest instead of dispensing justice.

This is the disadvantage of having a serving head of an institution as the head of its disciplinary body. This arrangement is subject to a high likelihood of abuse, except serious consideration is given made to separate the disciplinary position from administrative position as witnessed with the Nigerian Police Service Commission and the Civil Service Commission which have separate directors from the heads of the institutions.

Arguments abound that the CJN, President of the Court of Appeal, Chief Judges of State Courts, Federal Courts, Retired Supreme Court, Court of Appeal Justice, and Nigerian Bar Association (NBA) provided their tenure is predetermined and secured should be compulsory members of the NJC.

Equally worrisome is the requirement that the anti-graft agencies cannot prosecute an erring judicial officer unless he has already been sanctioned by the National Judicial Council. This has generated profoundly serious controversies and has indeed been a subject of litigation in some instances. On December 11, 2017 a landmark judgement was delivered on the exclusive power of the NJC to investigate cases regarding an erring seven officer of the judiciary indicates the court interpreted Section 158 of the 1999 Constitution of Nigeria as amended and upheld that such judicial officer, who runs foul of law, must first be found wanting and relieved of his position as an officer of the judiciary by the NJC before appearing before of a court competent jurisdiction for prosecution.

The Court of Appeal justifies its position on the doctrine of separation of power by suggesting that the judicial arm of government

be promised guaranteed autonomy. In the absence of independence, the judiciary will be stripped of its powers to operate. Since the NJC established to insulate the judiciary from external persuasion, it must therefore be given free opportunities to discharge its duties without undue pressure from other branches of the government.

This does not however relieve the Judiciary and its officers of the duty of accountability as being accountable is important for the independence of the judiciary. This is predicated on the insight that the accepted and practiced tradition of judicial independence, as expected in a democratic system of government, depends essentially on the support judiciary enjoys from the public no matter the judgement they provide (Burbank, 2009).

In this case, the Court specifically made the following pronouncements among others:

> "whenever a breach of Judicial Oath occurs, it is a misconduct itself, and the NJC is the appropriate body to investigate such breaches by the judicial officer and if found to be so, such judicial officer shall face disciplinary action and the NJC may recommend the removal of such a judicial officer to the appropriate authority, which is either the President – in the case of a Federal Judicial Officer or the Governor of the state in the case of a State judicial officer – and/or take other actions appropriately" (FGN V CJN, 2019).

The above dictum of the court makes it clear that a judicial officer can be made accountable for his wrongdoing after he or she has been stripped of their position by the NJC. The relevant agency of government saddled with the responsibility of enforcing law is a liberty to arrest and make the judicial officer account for his sins. The court went further to say that any agency that does not follow these laid down rules of prosecuting a judicial officer denies the NJC its powers to first sack before such an officer is prosecuted.

Quite frankly, this judgement drew divergent reactions from the public. Some, inclusive of EFCC faulted the court's judgement because they presumed that the court conferred immunity on judges. Others praised the court and emphasized that it will strengthen democratic rules. Nigeria practices democratic, presidential system of government patented after the US. The judgement above guarantees the independence of the judiciary as political interference on judicial matters will destroy a nation even faster than corruption (Nwosu, 2018).

In an article titled 'Guarding the Guardians: Judicial Council And Judicial Independence', published in the *American Journal of Comparative Law*, Garoupa and Ginsburg (2008) stated that Judicial Councils is a group that is established to accommodate appointing, promoting and discipline judicial officers from participating in political processes while also being accountable. The whole essence of the council for is for members to manage its affairs as against being controlled politically. The reason for the creation of the council was to ensure the independence of judiciary after a long period of military rule. In order to guarantee judiciary independence, therefore, lots of countries globally enshrined judicial council in their constitution. Despite its laudable advantages, the article however found out that there is little connection between Judicial Councils and quality of powers held and exercised by the different arms of government in a state (Garoupa & Ginsburg, 2008).

In the Nigerian scenario, one major criticism brought against the judgment of the Court

of Appeal as referred to above is that the judgement seeks to confer immunity on judges contrary to the provisions of Section 308 of the 1999 Constitution of Nigeria (as amended). The Constitution confers immunity on the President, Vice President, Governors and Deputy Governors only. Judges are not, in anyway, provided immunity by the Constitution.

It has however been contended that the NJC should emerge and tackle the challenge brought upon by critics of the Court of Appeal's judgement, who believe that the judgment runs foul of the Constitution (FG Drops Charges Against Ribadu, 2017). If the agency believes in the sanctity of the Constitution and in the principle of separation of power, the agency should stand up against the decision of the Court of Appeal.

Corruption Cases in Nigeria's Judiciary

In order to understand the issue that is being discussed, an examination of some corruption cases shall be looked into. On May 21, 2015, a Senior Advocate of Nigeria (SAN), Kunle Kalejaiye, was relieved of his position and equally disciplined by the Legal Practitioners' Disciplinary Committee (LPDC) because he was found guilty of professional wrongdoing. However, the Supreme Court Registrar was instructed to remove his name from the payroll.

The offense of Kalejaive was that he engaged in private phone conversations with the Chairman of Election Tribunal of Osun State Governorship Election, while representing the People's Democratic Party (PDP) in that same election (Kunle Kalejaiye Stripped of SAN Rank, 2015). He was found of professional misconduct, relieved of his duty by making him retire compulsorily (Kunle Kalejaiye Stripped of SAN Rank, 2015).

On October 21, 2015, Justice Lateef Lawal-Akapo of the Ikeja High Court, Lagos found Mrs. Oluronke Rosolu, a Court Registrar, guilty of fraud. She was said to have collected the sum of $330,000 from retired Lt. General Ishaya Bamaiyi, a former Chief of Army Staff. Upon being found guilty, she was sentenced to ten years imprisonment. Justice Lawal-Akapo in his judgement said, as an officer of the law you were supposed to be an image maker and not act in contrary (Premium Times, 2015).

In November 2015, the NJC got Justice Lambo Akanbi suspended because he was found guilty of professional misconduct. He was subsequently sacked by the President as advised by the NJC (General, 2020).

In 2016, Rickey Tarfa, a Senior Advocate of Nigeria, was charged to court by the EFCC on three-count charges. The defendant made a no-case submission, the court however, held a contrary view by stating that he has case to answer.

Equally, Justice Hyeladzira Nganjiwa was accursed by the EFCC of receiving in bribe $260,000 and ₦8.65 million gratification. He was brought before court on June 23, 2017. In the middle of the trial before Justice Adedayo Akintoye, court of appeal in December 2017 squashed the charges against the Justice in an interlocutory application, thereby setting the judge free. This he justified by saying that a judge must first be found guilty and sacked by NJC before he can be prosecuted.

It is however of crucial interest to point out here in this study that the EFCC, in its rejection of this judicial decision, went ahead to lodge an appeal in the Supreme Court via its lawyers. In doing so, EFCC contended that there is no law in Nigeria making the exercise of powers of law administration agencies on inquiry and trial rely on the exercise of powers by the NJC in the instance of criminal offences said to have been

committed by officers of the judiciary while discharging his responsibilities (Adesomoju, 2018).

The major thrust of this research is outlined, discussed and evaluated in detail in Chapter 4, where attention is concentrated on the issue of corruption in the Nigerian judiciary and how the incumbent government exposed some high profile cases and the outcome of these cases. The chapter equally identifies the deficiencies in municipal legislation, the loopholes in the national laws that judicial officers exploit to the detriment of the state and society in their corrupt acts and the negative impact of this on the fight against corruption, and arrives at the point that these efforts will amount to very little in the long run principally due to the fact of the unwillingness of the government to fully execute the international law provisions that the country is signatory to, in battling the bane of corruption in the nation.

Cases of corruption involving senior judiciary officers were examined in this chapter Although there are no known corruption cases of judicial officers directly involving international law or international jurisdiction, the chapter tries to explore how corrupt high judicial officers are, which makes them incapable to secure convictions of corrupt individuals or organizations. The fact that Nigerian judges do not reference international legal standards creates a problem for norm-based constructivist approaches to understanding how international law works and suggests that scope for norm diffusion through legal processes may be very limited.

In my view, and based on the results of this research, it is clear that the only hope for fighting corruption in Nigeria resides in the international law until amendments of domestic laws and the integrity of judicial officers is guaranteed. But, given what we have learned from the case studies, how can international law play a role in this process?

The following chapter will focus on the summary of the thesis and recommendations.

Chapter 5: Discussion, Conclusion and Recommendations

Discussion

This study has examined international law as a means for addressing the practice of corruption in society, using Nigeria as a case study. From the thesis we have discovered that international law to an extent was effective, but in some cases, it was ineffective because nations or states can decide to implement international law against corruption or not. This is because international law has its limitations that boarder on sovereignty, cooperation, jurisdiction, and whether or not corruption is an international crime. After utilizing documentary and other channels of data from primary and secondary foundations, the study has been able to show that from the perspectives of cooperation, coercion, and persuasion, international law can serve in the advocacy and effort to rid nations and climes of the unpalatable scourge of corruption.

Conclusion

Globally the last decade has witnessed an increase in the effort to fight corruption using the mechanism of international law. Not too long ago, two regional anti-graft conventions were established. The first was negotiated and accepted by members of the Organization of American States (OAS). The second was launched under the ages of the OECD.

Additionally, lots of international organizations are relentlessly dedicating money and

other resources to fight corruption. Some of these groups include the International Bank for Reconstruction and Development (IBRD)- often referred to as the World Bank group (WB)-, the United Nations (UN) and its agencies, European Union, and other INGOs such as International Chamber of Commerce and TI.

While certainly provoked by the response to corruption cases in Nigeria by international legislations, this study does not pretend to hold the answers to the total abolition of Nigeria corruption practices, but it aims to contribute to how international law works or does not work as it relates to the case of Nigeria, in particular, and the world in general.

In this thesis, the history of international law was visited in order to raise questions about the effort that international legal instruments have put in place to fight corruption and also to look at how the international law in the near future hopes to fight corruption. This is important because it will help to direct the international law on how best to fight corruption globally in a more balanced, effective, and efficient ways.

There is no doubting the fact that corruption is endemic in Nigeria. All arms of government such as the executive, the legislation, and the judiciary branches are all deeply involved in corruption. Cases of corruption are littered in Nigerian courts of government officials who are involved in corruption. It is sad to note that the judiciary, the branch in which justice should be served, is in itself submerged in cases of corruption by collecting bribes from defendants to either discharge them from corrupt cases, or allow for frivolous adjournment from criminal cases.

It is true that a lot of awareness internationally has been made on the issue of corruption by different organizations ranging from government and NGO institutions. There is still much to be done to have a world rid of corruption. One hurdle that must be addressed is what constitutes corruption. Different institutions have adopted different meanings of corruption. The second obstacle stems from jurisdictional problems. In some jurisdictions, what constitutes corruption obviously does not mean corruption in another jurisdiction. The third issue to be addressed is the ways on how stolen assets can be recovered. There is also a hot debate on the link between corruption and good governance on one hand, and corruption and human rights on the other hand.

Research Questions

Question 1: How effective is international law on Nigerian's fight against corruption?

It is a commonly known fact that Nigeria quickly signs and ratifies many international treaties and conventions. In 2017, Mohammadu Buhari signed a lot of international agreements. The question is, how important are these agreements? Can Nigeria clearly say that it is a monist or dualist state? Section 12 of the Constitution of Nigeria (1999) states "no treaty between the Federation and any other country shall have the force of law (except) to the extent to which any such treaty has been enacted into law by the National Assembly".

It is clear from practice that Nigeria is a dualist state and in a dualist state, the executive's ratification of a treaty does not authenticate that treaty. The legislative arm has a role to play. Their role is to domesticate that treaty before it becomes forceful. Nigeria is good at ratifying treaties and good at doing nothing about them. Such treaties are in different departments of government offices warming the shelves.

Normally, the reason for ratifying and

domesticating a treaty is to help individuals, organizations, and agencies that are harmed by others to get justice. In other developed countries, judges refer to other international laws domestically to support domestic laws in the dispense of justice. In the case of Nigeria, this is different. Judges in Nigeria are more likely not to refer to international legislation in the face of efforts to combat corruption not because they are averse to such acceptances but due to the intrinsic disinterest of the elite and ruling class to conform to propriety of processes in setting the right standards of governance.

International law has been effective in the fight against corruption on Nigerians who were caught and tried outside of Nigeria. It has helped with the arrest and sentencing of James Ibori, ex-governor of Delta State. Again, the repatriation of stolen funds of Late General Sani Abacha, former Nigeria leader, Alamieyeseigha previous governor of Bayelsa State, Joshua Dariye past governor of Plateau State and the subsequent conviction of the two governors were made possible under the international law jurisdiction. Overall, international law has been effective for Nigerian citizens when they were caught outside of Nigeria, however more work on the Nigerian government's part to implement international law within Nigeria is needed to make it effective.

Question 2: Despite the preponderances of international law, has corruption diminished among government officials and its agencies?

According to the 2018 TI Index, Nigeria placed 144 out of 175 countries regarding corruption. Averagely, Nigeria has ranked 121.48 between 1996 to 2018. Its highest rank was in 2005 in which it placed 152 and its lowest rank was 1997 and placed at 52. This clearly authenticates that corruption in Nigeria is high. However, government officials are careful to steal monies to private vault abroad because of the fear of being arrested by INTERPOL and tried in foreign countries. In this respect the growing number of international legal instruments that address corruption have had an impact in limiting the ability of corrupt actors to hide their assets abroad.

Question 3: How much has international legal and international frameworks impacted on Nigeria's anti-corruption efforts?

Corruption is one of the barriers that is not allowing Nigeria and Nigerians to live up to its full potentials. This epidemic called corruption has emptied Nigeria of trillions of dollars and responsible for development. Lack of development has been responsible for brain drain. Our educated youths who are supposed to develop the economy, are scattered all over the world for greener pastures. The social contract that is supposed to exist between the government and the people is eroded due to lack of trust from the people on the government.

The international legal framework has impacted on Nigeria's anti-corruption efforts in persuading Nigeria's government to establish the anti-corruption agencies such as the EFCC and the ICPC. It has also created the awareness of making Nigeria to speak against corruption even though they are still far away from fighting corruption ruthlessly. International law has impacted on Nigeria's corruption outside of Nigeria than inside Nigerian to the extent that through it high profile corrupt individuals were arrested, prosecuted, convicted, jailed, and assets recovered. One of the reasons why the international law has not impacted on Nigeria's anti-corruption efforts domestically is because of corrupt judges who take bribes to pervert justice.

Hypothesis

H_1: International law has impacted Nigeria's anti-corruption efforts as a result of issue linkages drawn by foreign governments (Coercive Model)

The effectiveness of international law using the coercive model mechanism is the application of pressure on the adversary decision-making to force them to act in the direction desired by the law. The place of coercive model in Nigeria fight against corruption its visible on the Nigeria ratification of basic laws on corruption at the international level, which means that officials of both the executive and judicial arms of the government are wary of the fact that instruments that exist in international law can be invoked against them outside the country if an indictment is established against them. This model of enforcement of international law was evident on the repatriation of Abacha stolen funds as explained in Chapter 3 of this thesis. This lends support to a realist focus on state power dynamics as explaining the effectiveness of international law, but as we have seen from the case studies, it does not capture the full story. But states have not been consistent in their application of coercive pressure on Nigeria. As a result, a coercive model, while proving at times effective, does not provide a causal pathway towards mitigating corruption in Nigeria. It is only in those instances of the most extreme manifestations of corruption that outside sates appear willing to coerce Nigeria.

H_2: International law has impacted Nigeria's anti-corruption efforts as a result of stigmatizing the practice of corruption (Persuasive Model)

From the findings of this research, Nigeria's first major effort to fight corruption actually predated international pressure and cooperative efforts that have been discussed earlier in this thesis. This early campaign by TI helped Nigeria enlist in FAFT in 2001. To be sure, stigmatization of Nigeria by TI 1996 to 2002 as the most corrupt nation among the states listed as of that time did help to elevate domestic concern regarding corruption. It is because stigmatization had some effect that a persuasive model is still instructive because certain INGOs such as TI rely on 'persuasion' that in principle uses 'shaming' to compel countries to initiate and sustain the fight against corruption. However, it might be the case that persuasion was more effective in raising concern about corruption in Nigeria abroad, in countries such as the United Kingdom, which would become an important external actor in Nigeria's anti-corruption efforts. Here we can find some support as well for constructivist understanding of how international law works, but overall, despite a significant advocacy effort, corruption remains endemic and corruption has not been stigmatized to the extent that would see corruption decrease. And, support for norm-diffusion remains limited as Nigeria judges have not been observed to internalize international norms in their own rulings.

H_3: International law has impacted Nigeria's anti-corruption efforts as a result of cooperating with other states and non-governmental organizations. (Cooperative Model)

The most effective international law model in fighting corruption in Nigeria based on this research is the liberal model as seen through cooperation enjoyed by the Nigerian government with other countries such as the UK and UAE in fighting corruption. This cooperation led to the conviction of James Ibori, Joshua Dariye and the repatriation of stolen funds by different political leaders. In this model, it is evident that liberal assumptions about how international law works can help shed light on fighting corruption in

Nigeria. However, more cooperation is needed amongst Nigeria and other countries in order to reduce the effects that corruption creates.

There is now a greater prospect for more international cooperation on the issue of corruption, which as noted above has proven effective, because we have seen a greater institutionalization of anti-corruption efforts at both the regional and global level.

The following is a summary of the researcher's findings from this qualitative research:

- Corruption refers to any act of dishonesty exhibited by any person who has a responsibility to uphold the code of conduct of a particular office.
- In reference to the Judicial system in Nigerian, the prevalence of corruption precedes the dispensation of unfair judgments.
- The existence of corruption leads to a situation in which bourgeoisies in the society get favoured in exchange for cash and other favours.
- Corruption within the Nigerian Judicial system has actually led to the proliferation of criminal activities particularly white-collar crimes, the perpetrators of which routinely pay their way to evade justice.
- The independence of the judiciary is necessary for democracy and the rule of law to thrive and so judicial corruption engenders a biased administration of justice.
- The causes of corruption are numerous including, but not limited to: greed, lack of transparency in the recruitment process of judicial officers; executive influence; poor remuneration of judicial officers; nepotism; favouritism; tribalism; etc.

It is a fact that the phenomenon of corruption is an endemic malaise that cuts across all sectors and spectrums of the Nigerian nation – it exists glaringly and its negative impact is brazenly seen and acknowledged by all, be it in private or in public intercourse. This creates a macabre contradiction in the country in which everyone – rich or poor, illiterate or educated, privately employed or working in the public sector, young or old, member of the elite or a commoner – openly understand that corruption is bad, undermines the economic foundation of the state and destroys the moral fabric of the society.

Yet, there is simultaneously widespread tolerance and sadistic respect for those that are glaringly affluent due to corrupt practices whether they hold positions of responsibility be it governmental or in the organized private as well as in the informal sectors of production and exchange relations in the society.

This situation does not also derogate from the fact that different groups, civil society organizations, knowledgeable individuals, community based associations and even proposed government policies consistently highlight the harms of corruption in the society and what the proliferation of this unsavoury phenomenon portends for the state and society in the long run.

Thus, it is today commonplace to hear dictums in Nigeria such as "kill corruption before corruption kills the nation" (African Arguments, 2015). It is equally germane to mention here that the extant civilian administration of President Muhammadu Buhari recorded the historic achievement of defeating an incumbent government then led by Dr. Goodluck Jonathan by campaigning strenuously that the suppression of corruption in Nigeria will be its cardinal focus.

However, after the first tenure of four years

from 2015 to 2019 and subsequent re-election, it will not be an understatement to hold here that not only has the regime not been able to effectively curtail corruption, recent trends and revelations rather show an embarrassing upsurge in both the act and unpalatable consequences of corruption in the nation.

The above fact necessarily creates a solid foundation for the significance of this research study, in its contributions to the on-going and never-ending discourses on the ways and means to address and if possible, eventually eradicate corruption from the Nigerian polity. To that extent therefore, this study has made positive input and contributed its own quota to the attempts at eradicating corruption in Nigeria, and has adopted the perspective of international law as an instrument to serve this objective, by relying on the principles of 'cooperation', 'coercion' and 'persuasion'.

Recommendations

In light of the vivid negative impact of corruption on the third arm of government (judicial branch) in Nigeria and its resultant impact on the politics, the recommendations below are necessary in assisting to end this menace taking into account the findings of this thesis which emphasize the effectiveness of international cooperation:

- Judicial officers are advised to abstain from being members of political parties for them not to bow to pressure in favouring members of their party at the expense of the populace.
- Anti-grafts agencies in Nigeria such as the DSS, ICPC, EFCC, and the Nigeria Police Force should step up in the area of monitoring public officers to ensure they do not live above their renumerations.
- The NJC should work within the limit of the Constitution and the enabling law that establishes it. NJC also should discipline erring judicial officers within the required time without fear of contradictions.
- It is also imperative that the NJC review the composition of members and guarantee the tenure. Members of NJC should be judicial officers either in-service or retired, that are disciplined and have integrity.
- The appointment, promotion and discipline of judges should not be in the hands of the legislative or executive government branches.
- The CCB must ensure that public office holders across all components of government declare access before and after tenure of office. Erring officers must be punished according to the provisions of the law.
- The principle of checks and balances that exist amongst the branches of government must be given strict attention. This will help reduce corruption.
- In order for judges not to accept bribes their salaries must be enough to take care of themselves, their families and other required needs while discharging their responsibilities. This is encouraged to be done through an organized structure which is not being controlled by either the executive or legislator.
- It is advised that judicial officers work outside their locality where they are known to reduce favouritism and nepotism.
- It is strongly advised that the judicial arm of government of Nigeria should purge itself of individuals that are of questionable characters who put the judicial branch of government in bad

light.

- The judiciary should be reoriented to know that their profession is noble calling that upholds equity, justice, and fairness.

This chapter carried out a comprehensive summary of the preceding chapters of the study, draw conclusions on the subject of the impact of worldwide law provisions and applicability in combating Nigeria's corruption and close by proffering some pragmatic recommendations on how the synergy between international law, IGOs such as the UN and INTERPOL as well as INGOs such as TI and competent enforcement by Nigerian authorities will properly coalesce the principles of coercion and persuasion into effective tools for stemming and gradually rolling back the tide of corruption in the polity.

Glossary of Terms

Corruption: According to United Nations Conventions Against Corruption (UNCAC), corruption is using civic power for a personal gain (Corruption, n.d.). This definition is narrow in comparison to TI (2019) which describes it as using their delegated control for personal gain.

Bribery: The OECD (n.d.) divides the meaning of bribery into three categories: "offering", "promising", and "giving", each of which have their own meaning as it relates to bribery. "Offering" happens when the briber is prepared to 'offer' a bribe to another, whereas "promising" is having to do with a briber who has agreed to provide a bribe. For example, this could be from a public official. Finally, "giving" is when the bribe has been completed by the briber. The OECD (n.d.) made it clear that "offering" and "giving" do not necessarily involve an agreement amongst the involved briber(s) and official(s), therefore, the official may not even be cognizant of the bribery transaction.

Extortion: TI's (2019) opined that extortion stems from coercion through threats, violence and demanding unjustified support.

Embezzlement: According to UNODC (n.d.), embezzlement is described as an individual who has access to goods or items of value which can be sold or trafficked. The funds or profits earned from goods and items are pocketed by the individual. TI has a similar explanation for their meaning of embezzlement; however, they specifically mention that the individual is someone who has an official position at an institution.

Fraud: As synthesized by TI (2019), fraud is deliberately misleading someone for the sole purpose of profiting from an inequitable gain dishonestly. Organizations such as UNODC (n.d.) believe that even if a bureaucrat were to persuade a relief agency to provide more items than needed, the agency could also be suspected of committing fraud. This would be contingent upon their awareness of the request and whether they reported it or not. Committing fraud is deemed as a breach of unlawful act and defies civil law.

Favouritism: Favoritism is using one's authority to grant favors/jobs to a friend irrespective of their accreditations and skills, instead of an individual who is highly qualified (Admin, 2015).

Nepotism: Nepotism is using one's power and status to grant a favors/jobs to a family member, regardless of their qualifications. (Admin, 2015).

Tribalism: Is the state of being organized by, or advocating for, tribes or tribal lifestyles in a way that the official concedes opportunities and benefits to those of his ethnic or tribal stock, whether such persons are qualified or not.

Dedicated

To Pastor Williams Akinbamijo, for his fatherly role and spiritual guidance on my life.

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Moreover, I would like to quote from Martin Luther King Jr., "I have a dream that one day my four little kids will not be judged by the color of their skin, but by the content of their character". One would have thought that at this age and time in the world, in an ivory tower such as TIU, that one would not be judged by where he is from. I had two terrible encounters in which a lecturer, upon greeting him, asked me a surprising question- "Are you a refugee?" I was shocked and I responded, "No, why did you ask?" He laughed and said, "Never mind". This experience to me was weird because I told him I was from Nigeria. In his mind, all Nigerians in Japan, and indeed black people, are all refugees. This is something that should have never happened in a university.

Another experience I had was when I made an appeal on behalf of the students to a lecturer in a class. Instead of the lecturer granting the appeal, he responded by saying, "Where are you from?". I told him Nigeria. The next comment he said was, "No wonder. Nigerians are known as 'talkatives', therefore you are a talkative". This statement almost made me to fight him in the class, however I kept my cool because other classmates of mine advised me not to react and to simply ignore him. I particularly did not find this funny because his attack on me was because I am from Nigeria and not because I committed an offense, it was purely because I was Nigerian. These two experiences almost made me to abandon my school, fall into depression, and ask, 'Why are blacks and indeed Nigerians, being discriminated against?'.

However, I took solace in the fact that there were indeed other professors who loved me for who I am, treated me as a human being, and judged me by my academic performances and not by the color of my skin or the tribe from which I come. Such professors are highly appreciated and they include: Professor Akitoshi Miyashita-the current Dean of International Relations Department of TIU; Professor Christopher Lamont- my advisor; Professor Kim- who consistently acted as a friend and father figure; Professor Yamamoto; Professor Honig Or, Professor Kazuyuki Nemoto; Professor Reiji Takeishi; and Professor Takashi Nishidate. These professors are highly appreciated for their contributions on my life here at TIU. Additionally, I would like to thank the staff at TIU and my classmates.

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