



Political Exposed Persons and the Need for Special Courts in Nigeria

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Abstract: *Excessive delays in the regular courts have necessitated the call for the establishment of special courts to try corrupt public officers. This paper examines what the nation stands to benefit from the innovation. Considering the myriad allegations of corruption, in recent times, the proposal that Special Courts should be set up to try looters is attractive. The challenge, however, would be how the government can make that happen. To create a new set of courts, the government may be confronted with the task of amending the constitution. An alternative would be to collaborate with the judiciary, to designate some courts to specifically handle corruption-related cases. We believe however that if the government can successfully set up special courts to expeditiously deal with corruption cases, the anti-graft war will be more efficient. This is because of the sad commentaries trailing EFCC's effort in prosecuting corruption cases, however, justify the demand for special courts manned by judges with iron cast will to bring the corrupt to justice and fence off deliberate hindrances stalling quick, diligent and successful prosecution of public officers and other prominent individuals docked for corruption. We recall the distressing experience of former EFCC boss, Mrs. Farida Waziri, who alleged in 2009 that some senior lawyers were frustrating the fight against corruption by stalling the prosecution of their clients docked by EFCC. Lamorde inherited similar problems, too. Till date, the EFCC is yet to secure superior court orders to overturn dubious perpetual injunctions given against the prosecution of many former governors in power between 1999 and 2007, accused of money laundering and hair-splitting frauds running into billions of naira. Though former President Goodluck Jonathan, while swearing-in former Chief Justice of Nigeria (CJN), Justice Mariam Aloma Mukhtar, in 2012, cited citizens' complaints of delayed trial particularly in cases of corruption, terrorism and other matters of serious concern; and frequent calls for special courts or the designation of special judges to handle such cases. Mukhtar, however, said there was no need for special courts; stressing that a judge, two or three in the states can be designated to take care of the cases in question. In order to achieve the objective of the study, the paper generated data mainly from existing literature on Politically Exposed Persons, Corruptions and Special Courts. Content analysis is used to draw insights from the literature on areas that are considered very significant to the research.*

Keyword: *Politically Exposed Persons, Corruption, Special Courts, Anti-corruption and Nigeria.*

INTRODUCTION

It is axiomatic to posit there are many unresolved problems in Nigeria but the issue of corruption is not only troubling but herculean. The damage it has done is so terrible. The menace of corruption leads to slow movement of files in offices, police extortion and slow traffics on the highways, ghost workers syndrome, election irregularities and black market bureaucracy respectively. Corruption is harmful to life and living; and like cancer, it plays havoc with the cherished value-system of civilized society, destroying all the labours of our hero past. Thus many in Nigeria believe that corruption is the bane of Nigeria's development. Corruption is not peculiar to any religion or ethnic group. It cuts across faiths and political systems and affects male and female, young and old. Corruption is traceable to dictatorial politics, capitalist and socialist economies, democratic governance. It lives with the Muslims, the Christian. The Buddhist and Hindu cultures are equally bedeviled by corruption. So it is as old as human existence.

Since corruption is not new, and not limited to any given society, it therefore means it is global phenomenon and not peculiar to Nigeria. However, corruption is pandemic in Nigeria and the leaders as well as the followers have lived in corruption. Corruption has received an extensive attention in the communities, and perhaps due to the fact that it has been over flogged in the academic circles, it has received varied definitions. Corruption has broadly been defined as a perversion or a change from good to bad. Specifically, corruption or corrupt behaviour involves the violation of established rules for personal gains and profit. Corruption is efforts to secure wealth through illegal means and private gain at public expense; or a misuse of public power for private benefit. Corruption is a behaviour which deviates from the formal duties of a public role, because of private gains. This definition includes such behavior as bribery, use of reward to prevent the judgment of a person in a position of trust. Corruption is an anti-social behavior conferring improper benefits contrary to legal and moral norms, and which undermine the authorities to improve the living conditions of majority of the people in a polity.

The recent development in Nigeria where discoveries of stolen public funds run into billions of US dollars and Nigeria naira, make these definitions very appropriate. Corruption is probably the main means to accumulate quick wealth in Nigeria. Thus corruption is a deliberate violation of the normal and legitimate operation of a thing be it a rule, a moral code, a person or organization. Beginning from May 29, when he officially assumed duty as the nation's new president, Muhammadu Buhari was confronted by the challenge of how to tackle the menace of corruption. Perhaps his first litmus test will be how his government will fast track the trial of some politically exposed persons accused of embezzling public funds while in office. For Buhari, this assignment is self-imposed. The four times he had asked Nigerians to elect him as president, fighting corruption had been a major thirst of his campaign. He promised Nigerians that if voted into office, he would tackle corruption with vigour.

While delivering a speech at Chatham House, London, United Kingdom, in the heat of the campaigns in February, Buhari posited that recovered loot would be used to fund his party's programmes on education, health, social infrastructure, youth employment and pensions for the elderly. Today, Nigerians and members of the international community alike are waiting on the president-elect with great expectations to translate his words into action by taming corruption and stabilizing the economy. Buhari cannot afford to disappoint on this promise, as the opposition Peoples Democratic Party, PDP and those who doubted his ability to fulfill his promises in this regard are already reminding him of his words even when he is still away from completing his first tenure as president.

But this is a season that some former and serving governors and other public officers linked with corruption may not wish to come. With bated breath, they are now waiting on Buhari to see how he would handle their cases, some of which have been in courts for some years. The general perception is that some, if not all, of these people have worked through their lawyers, mostly Senior Advocates of Nigeria, SANs, to ensure that the cases against them go on almost indefinitely. Certainly, some of the suspects may have to pay direly for their acts if found guilty and if Buhari would match his words with action. Buhari's resolve to deal with corruption is hinged on the wide belief that corruption and other related vices have hampered economic development in the country and also robbed it of its rightful place among the comity of nations. But even more disturbing is that most of the people alleged to have contributed in moving the country backward through corrupt practices are still active in government, and have constituted a clog in the wheel of efforts to fight corrupt.

The anti-corruption drive of President Muhammadu Buhari requires a judicial system that will accelerate the trial of corruption cases. Eminent jurists have warned that excessive delays in trying high profile corruption cases can frustrate and undermine the credibility of the government's commitment to anti-corruption and fuel the culture of impunity. They contend that that the establishment of special courts to handle corruption and related cases will buttress the seriousness of the government in its campaign against corrupt practices. The reason special courts are being proposed is the failure of the court system to facilitate prompt prosecution of suspects. Judges in the regular courts are fond of questionable long adjournments, frivolous injunctions and undue emphasis on technicalities that detract from the essence of corruption trials. The sad commentaries trailing Economic and Financial Crime Commission (EFCC's) efforts in prosecuting corruption cases justify the demand for special courts manned by judges with iron cast will to bring the corrupt to justice and fence off deliberate hindrances stalling quick, diligent and successful prosecution of public officers and other prominent Nigerians docked for corruption. It is public knowledge that the EFCC is yet to seek superior court orders to overturn dubious perpetual

injunctions against the prosecution of many former governors who ruled between 1999 and 2007 accused of money laundering and frauds running into billions of naira. No tangible result had been achieved in prosecuting them. Worse still, most of them are not just freely enjoying their loot. A lot of them are occupying other political offices particularly in the legislature making laws for the people they had short changed. Excessive delays in the regular courts have necessitated the call for the establishment of special courts to try corrupt public officers. This paper examines what the nation stands to benefit from the innovation.

Clarification of Concepts: Politically Exposed Persons

There is no internationally agreed-upon definition of politically exposed persons. As a

result, understanding who these “customers” are and how far the definition of PEPs should stretch is a difficult and politically sensitive topic (UNDOC and World Bank, 2007:25). Standard setters generally agree that PEPs are individuals who are, or have been, entrusted with prominent public functions, such as Heads of State or government (World Bank, 2007:25). The standards setters and a considerable number of jurisdictions also expect financial institutions to treat prominent public official’s family and close associated as PEPs (UNDOC and World Bank, 2007:25). Attempts to provide increased clarity to the definition have resulted in some standard setters limiting the scope of the PEP definition to exclude domestic PEPs, family members beyond immediate family, junior or middle ranking PEPs.

In some cases, countries have issued a limited list of positions that financial institutions are obliged to consider as politically exposed. Some of these restrictions may be designed to allow for greater efforts to be expended on more exposed PEPs (Limitations on Junior or middle – ranking). Flexibility on this issue also seems to make sense for each individual jurisdiction. At the same time, core definitions that are too restrictive (for example, including only immediate families and close associates) are likely to create loopholes, as evidenced on actual corruption cases (UNDOC and World Bank, 2007:25). Specifically, the ACAMS International Glossary of key Money Laundering Terms and Acronyms (2001), the Wolfsberg Global Anti-Money Laundering Guidelines for private Banking (2001) and Swiss Federal Banking Commission (2001) define politically exposed persons as “individuals holding or having held positions of public trust, such as government officials, senior executives of government corporations, as well as their Families and close associates” (Wolfsberg, 2001:2)

While there is no global definition of a PEP, the Financial Action Task Force (FATF)

(2005) issued guidelines in which the term politically exposed Person was defined. The Revised Financial Action Task Force’s (FATF) 40 Recommendations define PEPs as individuals who are or who have been entrusted with prominent public functions in a foreign country for example Head of State or of Government, senior politicians, judicial or military officials. This definition is not intended to cover middle ranking or more junior individuals in the foregoing categories. The FATF document also says that business relationships with family members or close associates of PEPs involve reputational risks similar to those of PEPs themselves.

The Wolfsberg Group (2008) World Compliance (2008) Don Jones (2010) and World Check (2010) add that the term should be understood to include persons whose current or former position can attract publicity beyond the borders of the country concerned and whose financial circumstances may be subjected to additional public interest. In specific cases, local factors in the country concerned, such as the political and social environment, should be considered when deciding whether a person falls within the definition.

UNCAC (20003), FATF and The Third European Union Directives have stretched the definition of PEPs. The former defines PEPs as individuals who are, or have been, entrusted with prominent public functions, and their family members and associates. The latter adds that they are natural persons who are or have been entrusted with prominent public functions and immediate family members, or person known to be close associates of such persons. The under listed examples are intended to serve as aids to interpretation:

1. Head of state government and cabinet ministers
2. Influential functionaries in nationalized industries and government administration;
3. Senior judges

4. Senior party functionaries;
5. Senior and /or influential officials, functionaries and military leaders and people with similar functions in international or supranational organizations;
6. Members of ruling royal families;
7. Senior and /or influential representatives of religions organizations (if these functions are connected with political, judicial, military or administrative responsibilities (Wolfsberg Group, 2008:1).

Though these definitions did not specifically separate foreign and domestic politically exposed persons but have identified guidelines, in which the term politically exposed persons was defined. The interpretation of each of these layers varies from one country to another .Some jurisdictions focused only on foreign political figures .Some countries limit the definition to the national level, some include regionally politically exposed persons. While there might be slight variation of the five layers above, the expectations of an organization doing business with politically exposed persons are universally similar.

The United Kingdom Money Laundry Regulations (2007) define PEP as a persons who is or has, at any time in the preceding year entrusted with a prominent public function by a state other than the united kingdom, a (European) community institution or an international budget or a family member, known close association of such a person Section 312 of the USA Patriot Act, Foreign Corrupt Practices Act, United Nations Convention against corruption (2003) among others did not include middle ranking and junior individually in the categories in the above definitions. However, the term PEPs is not used in FinCen's regulation. According to FinCen's regulation, PEPs describes a person who has been entrusted with a prominent public function, or an individual who is closely related to such a person. The Canadian Anti-money Laundering Regulation shows a large degree of overlap with the PEP definitions used in most other countries of the world; and is also comparable to the "senior foreign political figure" as outlined in the USA patriot Act.

The Canadian Act definition is:

Is a person who or holds or has ever held one of the following positions in or behalf of a foreign state. The list includes:

- a. Head of State or head of government
- b. Member of the executive council or government or member of a legislature;
- c. Deputy minister or equivalent rank
- d. Ambassador or attaché or counsellor of an ambassador
- e. Military officer with a rank of General or above;
- f. President of state owned company or a state owned bank;
- g. Head of a government agency;
- h. judge
- i. Leader or president of a political party represented in a legislature; or
- j. Holder of any prescribed office or position (Wikipedia, 2009:1)

This definition includes any prescribed family member of such a person. Although there is no global definition of PEP, most polities have based their definition on the FATF definition:

1. Current or former senior official in the executive, legislature, administrative, military or judicial branch of a foreign government (elected or not)

2. A senior official of a major foreign political party;
3. A senior executive of a foreign government owned commercial being a corporation, business or other entity formed by or for the benefit of any such individual
4. An immediate family member of such individual; meaning spouse, parents, siblings ,or children and spouse's parents or siblings
5. Any individual publicly known (or actually known by the relevant financial institution) to be close personal or professional associate.

The Wolfsberg Group (2008) PEPs definition applies to persons who perform important public functions for a state. This definition used by regulators or in governance is usually way general and leaves room for interpretations. For example, the Swiss Federal Banking Commission in its guidelines on money laundering uses the term “*person occupying an important public function*”, the US interagency guidance uses *senior foreign political figures*” and the BIS paper customer due diligence for bank says “*potentates*” In real life, it may be difficult to identify someone as PEP; this designation is chiefly aimed at preventing those who have been in a position of authority from making use of their plundering of state funds. Some countries have passed laws aimed at preventing “capital flight”, Nigeria for instance, prohibits its states Governors from holding bank account in other jurisdictions.

But the likelihood is that of someone has amassed funds illegally, they will somehow find a way or ways of transferring them out of their country ahead of their own fight: Perhaps even as school fees or pocket money” for a child. For our purpose, PEPs are individuals who are or have been entrusted with prominent public functions, including members of the executives legislature, judiciary, military administrative officers, appointed local and international officers representing their countries in domestic and international fora and celebrated political, banking and financial institutions and extra-ministerial appointees as well as members of their nuclear and extended families and close associates in a polity who are involved in grand corruption.

PEP, the Freed, the Suspended, the Convicted and the need for Special Courts

Worried by the high rate at which resource-rich African countries lose huge revenues through corruption, illegal transfers of profits and money laundering abroad, the African Union, AU, has asked African leaders to openly declare their assets and subject their wealth to public scrutiny. A report on Illicit Financial Flows from Africa, compiled by an AU panel led by former South African President Thabo Mbeki, said Africa loses an estimated \$60billion (about N10.08trillion) annually through such transfers. The report was presented Sunday at a summit in Addis Ababa, Ethiopia. The report has stirred massive concerns in Nigerian, which is said to account for over \$40.9billion (about N6.87trillion), or 68 per cent of the total figure. Cumulatively, Nigeria also topped the list of ten African countries with highest incidence of illicit financial transfers between 1970 and 2008, recording about \$217.7billion (about N36.57trillion), or 30.5% of the total in the continent (AU,2015).

The issue of accountability and probity by top government officials has always been a source of serious concern in Nigeria, particularly with President Goodluck Jonathan repeatedly refusing to publicly declare their assets. When the issue surfaced during his third Presidential media chat in 2014, former President Jonathan criticised those calling for the declaration, and said leaders should be allowed to determine whether or not the decision to make their assets public agreed with their personal principles. The president emphasized his disapproval by infamously declaring that he did not give “a damn” about publicly declaring his assets. The president said: “*The issue of public asset declaration is a matter of personal principle. That is the way I see it, and I don't give a damn about it, even if you criticise me from heaven,*”(Uzodinma, 2015:8)

However, concerned by the findings in the report about the role of senior government officials, politicians and state executives in facilitating corruption and laundering of scarce public funds in the continent, the African Union reminded all African presidents that they must submit their wealth to public scrutiny in line with global standards. But going by the realities of local and global barometers, corruption is defying all therapeutic treatments in Nigeria. For instance, on Monday, 28 January, 2014, Nigeria was further highlighted on the globe as the sickliest joker of Africa. On that day Yakubu Yusuf, a billionaire pension

thief, becomes a classic exemplar of that joke that the justice system has turned into. An Abuja High Court on that day sentenced the former head of the Police Pension Board to a two-year jail term for pleading guilty to the embezzlement of N23.3 billion. Yusuf will also forfeit property valued at N325 million. But the pension thief would not be going to the prison after all. He got an option of N750000 to stave off a life behind the bars. For many anti-corruption campaigners, the Yakubu conviction yields nothing but a painful antithesis: the speed with which the nation's justice system clamp petty thieves to a jail term and the other 'speed' by which elite criminals get a reprieve for building the nation in ways less than patriotic.

It is worthy to note that before Yusuf's case, it was the granting of amnesty to his former boss, Diepreye Alamieyeseigha, former governor of Bayelsa state. Most currently are the cases of the current PDP National Chairman Adamu Mauzu and Boni Haruna the minister for youth development. For instance, the Coalition against Corrupt Leaders (CACOL) had faulted the nomination of the former governor of Adamawa State, Mr. Boni Haruna, in the ministerial list of President Goodluck Jonathan. The President had sent a list of eleven ministerial nominees to the Senate for screening and confirmation.

Speaking in a press statement to *African Examiner* Chairman of the Coalition, Comrade Debo Adeniran, condemned the choice of Boni Haruna and averred that his nomination makes a mess of the anti-corruption war of the federal government. Adeniran, mentioned that it is unfortunate that despite the barrage of allegations against Boni Haruna, Mr. President could still nominate him for ministerial appointment. According to him:

This confirmed our fear that President Jonathan himself is neck-deep in corruption; hence he wouldn't have find it easy to romance people of questionable character so openly. He quarried, how could the President that claimed he's working assiduously to rid the country of corruption nominate an accused into his cabinet? Is it because there's dearth of people with impeccable pedigree that the President is left with no other choice than Boni Haruna? This same Boni Haruna, was arraigned on a 28 count charges of fraud and embezzlement of public fund during his administration as governor of Adamawa State between 1999 and 2007. He was arraigned alongside one Mohammed Inuwa Bassi, a former Minority Leader in the Adamawa State House of Assembly, John Babani Elias, his aide and Al-Akim Investment Nigeria Limited. They were first arraigned in 2008. Also, Haruna was alleged to have on or about the 13th day of November, 2002 at Yola fraudulently uttered a Guaranty Trust Bank Plc Cheque no.0348501 dated 13/11/2002 in the sum of N 10,000,000.00 drawn on account number no 3613406139110 to Guaranty Trust Bank Plc, operated by him in the name of Mohammed Inuwa Bassi, with intent that the said cheque may be acted as genuine and thereby committed an offence contrary to section 3 (2) (a) of Miscellaneous offences Act, Cap 410 Laws of the Federation of Nigeria 1990 as amended by the Tribunals (certain consequential Amendments, etc) Decree no 62 of 1999 and punishable under Section 3 (2) of the same Act. In the same vein, Mr. Boni Haruna, was also alleged to have on or about the 12th day of March, 2003, while he was still a governor, fraudulently uttered a Guaranty Trust Bank Plc, cheque no. 3049628 dated 12/3/2003 in the sum of N16,125,000.00 drawn on account number no, 361 3406139110 to Guaranty Trust Bank Plc, operated by him, in the name of Mohammed Inuwa Bassi with intent that the said cheque may be acted upon as genuine (Adelowokan, 2014:14).

The Coalition against Corrupt Leaders (CACOL) however said it is shameful that a 'fraudster' could be nominated as a Minister of the Federal Republic of Nigeria. The anti-corruption crusade therefore called on the Senate to reject any ministerial nominee of questionable records, most especially those indicted or facing corruption charges with the anti-graft agencies. This effort did not yield the desired result.

First it was James Onanefe Ibori, a 'sacred cow', who bagged a 13 years sentence for money laundering charges in far away London, after initially slipping through the greased fingers of legal perverts in the Economic and Financial Crimes Commission and their cronies in the Nigerian judiciary. The other sacred cows-like Orji Uzor Kalu; Saminu Turaki; newly convicted Chimaroke Nnamani; Joshua Dariye among others- whose affidavits of corrupt enrichment and abuse of office have been in court for more than five years now, still roam the corridors of power unfettered. It is estimated that about N8 trillion of Nigeria's common wealth derived mainly from its main source of revenue oil, has been frittered away by people in government in the past 13 years. This stupendous volume of unchecked stealing by public servants and political office holders has contributed significantly in impoverishing a larger percentage of the population (Eme, 2012).

Despite the over abundance of human and material resources majority of Nigerians continue to live below breadline. In all these the apex leadership of the ruling class undoubtedly complicit in corruption has done little or nothing to stem the tide. But for few high profile convictions, majority of the people allegedly involved in the lootings still walk free and most times in corridors of power. *Nigerian Orient News* investigations revealed that no sector of the Nigerian social life has been left unconquered by these marauders.

While it has been difficult to prosecute these powerful individuals locally and bring them to book, most of the cases that have international links have been completely dispensed with and justice seen to have been obtained. Notable is the case of Atiku Abubakar, former vice president of Nigeria and later presidential aspirant under the ruling People's Democratic Party. Atiku Abubakar was indicted in a high profile bribery scandal involving foreign companies one of which is Siemens AG of Germany. The indictment of Atiku Abubakar was an aftermath of an investigation by the United States Senate Permanent Sub Committee on Investigations (Committee on Homeland and Security and Government Affairs). Titled "Abubakar Case Study :Using Offshore Companies To Bring Suspect Funds Into the United States" one Miss Jennifer Douglas Abubakar a U.S citizen and fourth wife of Atiku Abubakar was said to have helped her husband between 2000 and 2008 to bring in over \$40m of suspect funds into the United States.

According to the reports most of the funds were transferred by little known corporations primarily LetsGo Ltd Inc. and Sima Holdings Ltd, some of the payments being bribe payments from Siemens AG, a German corporation and which case Atiku Abubakar has not answered in any court in Nigeria. In the same report it was indicated that Ms Jennifer Atiku used most of the money placed into her accounts to live a lavish lifestyle in the US paying credit card bills and house hold expenses in the range of \$9000 to \$10000 per month including legal and accounting bills. One of such bills the report revealed was the payment of \$14m and another \$2.4m transferred through Guernsy Trust Co. Ltd. and LetsGo Ltd. as consulting fees to American University in the United States from the American University of Nigeria established in 2003 and closely associated with Atiku Abubakar.

In a damning note the report said:

Over the years questions have been asked about the source of Mr. Abubakar's wealth. He spent over twenty years in Nigerian Custom Service and then worked ten years in the private sector before serving as vice president of Nigeria from 1999 to 2007. While vice president of Nigeria Mr. Abubakar was the subject of corruption allegations relating to Nigerian Petroleum Technology Development Funds (Anudu, 2013:13).

Interestingly the co-accused in the bribery scandal Siemens AG of Germany admitted engaging in widespread bribery payments in Nigeria, pleaded guilty to criminal violations, settled civil violations of the US Foreign Corrupt Practices Act and agreed to pay over \$1.6m USD in criminal and civil violations. While Atiku Abubakar still walks free and even aspired to the highest office in Nigeria, despite all these allegations and subsequent indictment overseas, James Onanefe Ibori, former governor of oil rich Delta state in Nigeria was not very lucky. After several attempts by the Nigerian anti corruption agency, Economic and Financial Crimes Commission (EFCC) to prosecute and nail him of numerous corruption charges failed, it was the Metropolitan Police in the U.K .that finally jailed Ibori after he admitted to have embezzled about £157m belonging to Delta state government. In a curious twist of judicial maneuvering, James Ibori had been acquitted and discharged of all 143-count charges preferred against him by EFCC, while all his cohorts including wife, mistress, house help and lawyer had all been jailed in the UK for same offenses.

In a near similar case, the Metropolitan Police of United Kingdom in 2005 allegedly found £1m cash in the London home of Diepreye Alamieyeseigha, former governor of Bayelsa state home state of current Nigerian president, Good luck Jonathan. The Metropolitan Police was to later find a total of 1.8m in cash and bank account also acknowledging that he has properties in London valued at £10m. But before the United Kingdom authorities could set measures to bring him to justice in the UK for money laundering offenses, Alamieyeseigha jumped bail in London allegedly disguising himself as a woman and returned to Nigeria where he was eventually impeached, prosecuted and received a light jail sentence while still retaining a larger chunk of his loot. Only recently did the United States take over his assets worth a meager \$401.931 (Mordi, 2010).

The Nigerian Police, the body created by an Act of Parliament to maintain law and order which includes apprehending thieves of any category has also seen itself enmeshed in rather mind boggling corruption cases. Former Inspector General of Police Tafa Balogun was in 2005 arraigned before a Federal High court in Abuja on charges of corruptly enriching himself to the tune of N16b. Even though he was convicted to six months imprisonment part of which he served in the National Hospital Abuja as a patient, Nigerians were yet served with another dose of corruption comedy when in 2008 the House of Representatives Committee Chairman on Police Affairs, Abdul Ahmed Ningi told Nigerians that the loot recovered from Tafa Balogun could not be accounted for by then Inspector General of Police Mike Okiro and Farida Waziri the then boss of the EFC, the supposed corruption fighter. While these two top crime busters were said not to be able to account for about N6b of loot money recovered from their former colleague Tafa Balogun, Nigerian Orient News investigations revealed that the said properties were allegedly sold to private individuals at give away prices (Anudu, 2013).

In 2009, the National Coordinator of the Police Equipment Foundation Mr. .Kenny Martins and others named Ibrahim Dumuje, Joni Icheke and Cosmos Okpara were alleged to have embezzled N7.7b belonging to the Foundation. After all manipulations to evade justice even when Kenny Martins had also been involved in another scandal of obtaining fraudulently the sum of \$97.5M on behalf of the Federal Government of Nigeria from Calvary Security Corporations in United States, a Federal High Court sitting in Abuja in a land mark judgment in June 2012 agreed that Kenny Martins and his cohorts have a case to answer in the alleged scam (Eme, 2009).

Currently the EFCC is prosecuting several people due to their unholy involvement in Pensions Administrations. In a gullible display of insatiable appetite to steal, six staffers of the Police Pension Office were arraigned before a Federal High Court in Abuja for stealing N32.8b belonging to the Police Pensions Board. Little wonder that police men who risk their lives in their service years protecting lives and property of fellow citizens end up in abject penury after service. In like manner the EFCC has confiscated properties of one Dr Sani Tiedi Shuaibu a former director, Pension Administration in the office of the Secretary to the Federation who is standing trial over an N4.5b pension scam (Anudu, 2013).

In January 2012, the EFCC told an Abuja High Court that Mr. Dimeji Bankole former Speaker House of Representative and his deputy Usman Nafada have a case to answer in the N38b fraud and criminal breach of trust instituted against them shortly after leaving office. Despite discharging and acquitting the duo on the 17-count charge brought against them the anti graft agency still insists that they are culpable of the offence (Eme, 2012).

The culture of corruption has become so pervasive in Nigeria that it has not only permeated the fabric of our society but has become a tradition. Just recently in April 2012, the EFCC arraigned three staff of the Federal Service Commission before an Abuja High Court a on 12-count charge bordering on forgery and fraudulent conversion of N109m just as it also arraigned the Chairman of the Ondo State Oil Producing Area Development Commission OSOPADEC Mr. Adebowale Henry Ajimuda and four others on 13 count charge of embezzling N540m belonging to Ondo State. When Hon. Ndudi Elumelu the then House of Representatives, committee chairman on Power and Steel ,embarked on a thorough investigation of the power sector after Hon.Dimeji Bankole ,then Speaker of the House of Representatives said that close to \$16b had been spent on power sector without tangible results , little did Hon Elumelu know that he had undertaken a journey aimed at self destruction. The committee after discovering huge scams in the power sector suddenly got tangled with allegations of bribery to the tune of N100m. The accusers alleged that Hon. Ndudi Elumelu had collected money ostensibly to exonerate some powerful individuals who had been implicated in the power sector scam. Up until this moment nothing has been heard or said about the \$16billion (Eme and Chukwuma, 2011).

An attempt by the Federal Government of Nigeria to remove subsidy on Premium Motor Spirit (PMS) popularly known as fuel opened a Pandora's Box which stories are still developing till today. On the insistence and prompting of Nigerians that corruption and fuel had been subsidized all along, the House of Representatives set up an Ad Hoc committee to look into alleged irregularities in the fuel subsidy regime. The committee after its investigation discovered that N1.4 trillion had been unlawfully paid out to the treasury looters. This particular fraud is said to be the most monumental in Nigeria and in Africa considering that it is close to half the annual budget of Nigeria and that of about seven West African countries put together.

Few months after the submission of the report of the Panel which included recommendations for appropriate sanctions to culprits, Nigerians were yet treated to another drama when Mr. Femi Otedola whose company Zenon Oil had been fingered as one of the beneficiaries of the loot, came out to say that the chairman of the Ad Hoc Committee Hon. Farouk Lawan had solicited for \$3m out of which \$620,000 had been paid out to enable Hon Farouk Lawan remove Zenon Oil from any complicity in the scam. This ugly development is believed by Nigerians as another calculated attempt to hoodwink them and divert attention from the real issue of the N1.4trillion loot, while the recommendations for appropriate sanctions would be swept under the carpet and go the way of similar previous exercises (Eme, 2012).

Apart from the much publicized case of Diepreye Alamiyeseigha and James Onanefe Ibori, two former governors of oil rich Bayelsa and Delta states who converted their states treasuries to personal estates, many other governors who presided over their states as Imperial Lords are currently under trials for corruptly enriching themselves while in office. On April 27, 2012 a Court of Appeal sitting in Abuja affirmed that the former governor of Abia state Orji Uzor Kalu had questions to answer in the case involving Abia state funds totaling N5b. The said funds were allegedly transferred from Abia State account in Manny Bank now Fidelity bank to Orji Uzor Kalu's SLOK Nig. Ltd. account in Inland Bank.

On 27 July 2007, former Governor Orji Uzor Kalu of Abia State appeared before an Abuja High court on a 107-count charge of money laundering, official corruption and criminal diversion of public funds in excess of N5 billion. Kalu pleaded not guilty to the charges and his counsel asked the court for bail. But Justice Binta Murtala Nyako decided otherwise. She ordered his detention at Kuje Prison in Abuja while she fixes the date for the argument for bail. Maybe the Honourable Justice should have told that to the marines. Kalu was on the streets four days later (Eme and Chukwuma, 2011).

In similar circumstances Governors Christopher Alao Akala and Jolly Nyame of Oyo and Taraba states are standing trials on charges which border on corrupt enrichment while in office. Both governors are accused of stealing monies totaling N3.8b. While Alao Akala is said to have used his ill gotten wealth to acquire properties in Nigeria and London, Jolly Nyame also is said to have used up monies from state coffers to acquire properties in Nigeria and abroad. Jolly Nyame was squarely indicted when a former accountant of the state Rural Electrification Board told an Abuja High Court that he withdrew N282m from the account of the Board which he personally handed over to the governor. Going by EFCC records Governors Danjuma Goje and Akwe Doma are both standing trials for financial crimes committed while in office. Cumulatively both governors are said to have made away with N76b of their states' money. Governors Chimaroke Nnamani of Enugu state, Rasheed Ladoja of Oyo state, Olusegun Agagu of Ondo and Gbenga Daniels of Ogun states are all standing trial in one court or the other for corruptly enriching themselves while in office. According to EFCC records these four former governors while in office and in connivance with civil servants under them stole a staggering N46b from their states. As some of these governors are out of office and government battling to save their heads from these criminal charges, many others accused of similar offences are still in government carrying on with the business of the day, living very large in the midst of people they pauperized (Eme, 2012).

Former governor of Plateau state Joshua Chibi Dariye, now Senator of the Federal Republic of Nigeria, jumped bail in London after the Nigerian government had filed a case against him in London, where he had run to having evaded arrest in Nigeria. In the said case, the Nigerian government alleged that Mr Dariye had used fake name of Ebenezer Ratman to open accounts in former All States Trust Bank and siphoned N1.3b of Plateau state money. In July 2007, Dariye was arraigned before an Abuja High Court on a 23-count charge involving the sum of N700 million. He pleaded not guilty to all the charges and got a bail. And in the usual subversive antics of former governors haunted by corruption trials, Dariye challenged the jurisdiction of the court to try him. He contended that the alleged offence committed by him took place in Plateau State. He also contended that the funds involved belonged to Plateau State and argued that his trial ought to take place in the state, not in Abuja.

His case file now fossilizes in the court. And Dariye, the accused, is now a distinguished senator of the Federal Republic of Nigeria. Former governor of Kwara state now Senator Bukola Saraki, the man who at the onset insisted on the floor of the Senate that there were irregularities in fuel subsidy management was recently quizzed by the Special Fraud Unit of the Nigerian Police on allegations that he was complicit in a N21m loan, just as the former governor of Kaduna state now Senator Ahmed Markafi is alleged to have defrauded the state with the appellation 'Liberal State' of N1.3b.

In the same vein the former governor of Jigawa State, Senator Samina Turaki is allegedly not able to render accounts of N36b of his state money. Turaki, too, was docked on a 32-count charge involving stealing about N36 billion from his state over an eight-year period. After a brief detention, Turaki was granted bail in the sum of N100 million on 27 July 2007. Apparently to enable him hibernate in the hallowed chamber also as a Senator. And like Dariye, he too successfully secured the transfer of his trial to his home state where the files now rest in peace.

Newly convicted former Enugu State governor, Chimaroke Nnamani, who spent four years in the Senate after leaving office in 2007, was one huge beneficiary of this Judicial laxities. He was arraigned before a Lagos Federal High Court on a 105-count charge for allegedly stealing the sum of N5.3 billion. He pleaded not guilty and also got a bail. Ditto for Nyame. He was docked on a 41-count charge in July 2007. He was alleged to have embezzled the sum of N1.3 billion. Part of the allegations against Nyame was that he collected N180 million from USAB International Nigeria Limited. The money was a kick-back from a N250 million contract awarded to the company for the supply of stationery to the state government between January and February 2005. Nyame, in his statement, said he approved the said contract and promised to refund whatever bribe was given to him. He said in his statement: *“On the issue of my share of N180 million, I must confess; I must contact the government officials, who allegedly gave me the money. Whatever is my share, I will refund”* (Eme, 2012). Nyame also had a comic twist. He moaned that the amount attributed to him by the EFCC was far above what he took. Meaning he owns up to the allegations against him.

In corporate Nigeria, there's also batch of mega-rich captains that have escaped justice, after haemorrhaging the banking industry: Cecilia Ibru, former MD, Oceanic Bank; Erastus Akingbola, former MD, Intercontinental Bank PLC; Batholomew Ebong, former MD, Union Bank; Francis Atuche, former MD, Bank PHB; Sebastine Adigwe, former MD, Afribank PLC; and Chief Osa Osunde, chairman, Afribank.

A number of indicted lawmakers also found a solace in the rotten chamber of justice. Senator Nicholas Ugbane, Hon. Ndudi Elumelu and others in the N5.2b Rural Electricity Agency contract case, bought their way out of the scam. The former Speaker Dimeji Bankole and his deputy Usman Nafada also got away with a N40 billion Scandal. Farouk Lawan, too, has been hibernating in court since he got smeared in the subsidy probe report. One of the big catch of the oil scandal--Femi Otedola, owner of Zenon Group—remains a fixture in Jonathan's itinerary (Falana,2014). In all these screw-ups, there appears a beaten path to swinging justice: buying time to end up in a plea bargain. For many of the perennial cases, Lamorde explained to the Senate committee,

the EFCC has gone to Supreme Court twice -- on mere interlocutory applications. “They will file this, the judge will overrule them, they will go to Court of Appeal and lose there, but they will still go to Supreme Court. At the Supreme Court , the case would then be referred to the trial judge for continuation, then a fresh application will follow suit. “We know how long it takes for a trial to go to Court of Appeal and get listed, then go to the Supreme Court to get it listed and decided upon (Eme and Oko,2011).

It is painful to note that the lawyers involved in the prosecution and defense of the cases referred to in this paper are Senior Advocates of Nigeria. The Nigerian Bar Association owes the legal profession a duty by calling lawyers who frustrate the prosecution of corruption cases to order. Trial courts are also enjoined to report such lawyers to the Disciplinary Committee of the NBA for appropriate actions.

For attitude, many believe Jonathan's a wimp. And that has brought his administration's approach to corruption under attacks by his critics. The Patriot, a group of senior citizens led by Prof. Ben Nwabueze, said the president's loose handling of high-profile corruption cases is responsible for the “failure to punish appropriately and promptly” the few politicians prosecuted for corruption.

Lai Mohammed, APC national publicity secretary, for instance, would describe it as “an amazing lack of political will”. Debo Adeniran, chairman Coalition against Corrupt Leaders, would brand the ministries, departments, and agencies championing the crusade against corruption “a bunch of unserious lot”. This name calling, galled as it is, seems to have some rhymes and reasons. Since ex-President Olusegun Obasanjo teed-off the anti-corruption campaign in 2001, 1500 cases have been prosecuted, 12 years after. As at the administration of the Farida Waziri, the second chairman of the Economic and Financial Crimes Commission, the arrowhead of the campaign, 400 convictions were recorded, out of the

600 cases concluded. Most of these are petty cases, including advanced-fees fraudsters and other cybercrimes. The heat was fully on initially, under the commission's pioneer chairman, Nuhu Ribadu. He actually grossed in over 700 of these cases, including those of 19 governors in office between 1999 and 2006. About \$6.5 billion, Farida said, was recovered in 2010 while around N1 trillion worth of asset was temporarily forfeited. The total number of top-flight cases stood at 50 two years ago.

But Ribadu was eased out in 2007, and the EFCC began to lose steam. The ousting of Farida, for non-performance, in 2011 brought in Ibrahim Lamorde. Critics, however, believe the fight is icing over faster than ever before. Under this government, Dino Melaye, the executive director the Anti-Corruption Network, was quoted in a newspaper report, corruption has graduated from the stealing of millions to trillions. Other civil rights leaders are equally spurting out figures, angrily. "In the last two years, an estimated N5 trillion has been stolen by our government officials," said Joe-Okei Odumakin, president, Campaign for Democracy. Odumakin's guesstimate would have included the over N1 trillion sunk in the oil subsidy scandal, the Malabu oil scam, the pension heist, and the Nigerian Security Printing and Minting N2.1 billion misappropriation. There, on the other hand, is a cabinet-load of probe reports gathering dust in Aso Rock. No ass-kicking yet.

As these billions of naira evaporate, the EFCC and its sister Independent Corrupt Practice and other Related Offences Commission (ICPC) are just playing around. The Commissions have admitted their failures. The fact on the ground is that no case has been concluded," the EFCC boss told the Senate Committee on Narcotics, Drugs, and Financial Crimes in November. But Lamorde, like his master, wouldn't take responsibility. The non-conclusion of many of the cases, especially of the politically exposed persons', according to the EFCC boss, is inevitable. "These are people who have the resources to drag these cases indefinitely and perpetually," he told the committee. Actually, there are cases that have been dangling since 2006. Plus many of the over 200 Lamorde has brought to law. Dragging the cases, with pedestrian applications, is effectively the specialty of the corrupt lawyers – the bigwigs among them. So Lamorde will like the Nigeria Bar Association to take the knock, too. As expected, the NBA has fired back in the blame game.

According to Okey Wali, former NBA's president, "They are their own problem," Besides the investigative incompetency of the anti-graft agencies noted by the NBA, the judiciary too, Wali said, is part of the problem. *"What are the judges doing with these frivolous applications brought by the lawyers"* (Anudu,2013).

The buck has been on the judges table for long, really. Mike Aondoakaa, a former attorney-general of the federation stuck out like a sore thumb in the late President Umar Yar' Adua's administration. Aondakaa moved artfully against the prosecution of the 19 governors caught in Ribadu's dragnet then. He particularly wagered his wig on James Ibori, the former governor of Delta, serving terms in a UK prison for being guilty of corruption. The AG went as far as the Southwark, in London, to defend Ibori. Mohammed Adoke, the current AG, also scotched the EFCC by snatching away its prosecutorial powers; that his office alone wields such powers. Adoke's declaration didn't just surprised Nigerians; it made them further believe the judiciary is out to help corruption fester.

Now, the public perception says Itse Sagay, law professor and constitutional lawyer, is that judgements are purchasable and judges have no integrity. Court registers across the federation groan with names of such big buyers. These are mainly well-heeled bureaucrats, party heavyweights, and their cronies. To address these challenges, the Federal Government has begun moves to establish special courts to try corruption-related cases as part of the efforts to fight graft in the country. *Saturday PUNCH's* investigations on recently revealed that President Muhammadu Buhari was opting for a comprehensive onslaught against the problem of corruption in the country. It was learnt that the President had concluded plans to submit a bill on the planned special anti-corruption courts to the National Assembly.

The PUNCH had on Monday, August,17 exclusively reported that the Presidency had commenced the process of identifying fearless judges that would be saddled with the responsibility of prosecuting corrupt persons. It was also gathered that the Federal Government was planning to establish 37 of the Special Courts to try corruption in the Federal Capital Territory, Abuja and the 36 states of the Federation. A top operative of one of the anti-graft agencies, who confided in one of Saturday Punch correspondents, said that the Federal Government decided to set up the planned special courts because of the long delay by regular courts in deciding corruption-related cases. It was further gathered that the President recently

made a demand for 36 judges with the requisite integrity and boldness to decide cases in line with the law and not according to influence of the people or the pecuniary gains that come with associating with them.

The anti-graft officer said,

The President is being careful; he does not want people to do a wishy-washy job for him. Buhari is pressing for the establishment of special courts to try corruption cases. He wants the courts to be established in Abuja and the 36 states of the federation so that they can fast-track such cases (Fidelis Soriwei and Ade Adesomoju,2015:1).

Investigations further revealed that the Federal Government had contacted the National Judicial Council to provide judges with impeccable reputation to preside over the planned courts.

It was gathered that the NJC released the names of 100 judges from the 36 states of the federation to the leadership of three major anti-corruption bodies in the country after an internal process of selection. The judges were screened by operatives of the Economic and Financial Crimes Commission, the Independent Corrupt Practices and other related Offences Commission and the Department of State Security. It was gathered that the focus of the on-going screening exercise is to identify judges with a passion for the law and the constitution rather than deference to personalities.

The officer stated,

On Tuesday, the NJC forwarded the list of 100 judges to the anti-corruption agencies for screening. The exercise is meant to select the judges for the special courts the President is moving to establish to try corruption cases. The plan is to get judges that are bold, courageous, and fearless. Many of them must have delivered sound judgements (in the past). They don't want those who play to the gallery. The screening exercise is very intensive; they are passing through the NJC that has the list of all the judges. When the NJC is through with its screening, it passes the list of the judges to security operatives and the anti-graft agencies to continue with the investigation. And because this is a democracy, they have to go through acceptable legal channels; they have to amend the constitution to set up these courts. They want to start with speed; even the legislatures have to be involved to amend the constitution (Soriwei and Adesomoju,2015:1).

It was also learnt that the anti-graft agencies screened the judges by doing background checks on them, particularly looking at their history at the bench. A special court generally addresses only one or a few areas of law or has only specifically defined powers. According to Wikipedia(2015), Special courts in the United States developed out of the English custom of handling different kinds of cases by establishing many different special courts. Many of the special courts established in the United States during colonial times and shortly after the Constitution was adopted have been abolished, but new special courts continue to be created, especially at the state and local level. Special courts now handle the vast majority of all cases brought in the United States. The majority of all cases brought in any particular state jurisdiction go to special courts. Special courts exist for both civil and criminal disputes. Cases tried in special, limited-jurisdiction criminal courts, such as traffic court or misdemeanor court, may be reheard in a general-jurisdiction trial court without an appeal upon the request of the parties.

Special courts do not include the many Administrative Law courts that exist at both the federal and state government level; administrative courts are considered part of the [Executive Branch](#), rather than the judicial branch. However, a general-jurisdiction court that hears only specific kinds of cases, such as a landlord-tenant branch of a general-jurisdiction trial court, is usually considered a special court (*Robert, 2008*). Special courts differ from general-jurisdiction courts in several other respects besides having a more limited jurisdiction. Cases are more likely to be disposed of without trial in special courts, and if there is a trial or hearing, it is usually heard more rapidly than in a court of general jurisdiction. Special courts usually do not follow the same procedural rules that general-jurisdiction courts follow; often special courts proceed without the benefit or expense of attorneys or even law-trained judges (*Robert,2008*).

The judges who serve in special courts are as varied as the special courts themselves. Most special court judges obtain their positions through election, rather than through the merit selection system common in general-jurisdiction courts. In addition, the majority of special court judges are not lawyers. In *North v. Russell*, 427 U.S. 328, 96 S. Ct. 2709, 49 L. Ed. 2d 534 (1976), the U.S. Supreme Court upheld the

use of non lawyer judges in special courts as constitutional as long as a trial de novo (a new trial) in a court of general jurisdiction with a lawyer-judge is given upon the request of the parties (*Robert,2008*).

Specialised law enforcement bodies dedicated to the fight against corruption have been established in several European countries. They often focus on middle and high-level corruption offences and corruption related acts committed by high-ranking public officials. Investigators and prosecutors are usually specialised in corruption and financial crimes and have access to special investigative techniques (Salaudeen,2015). Bulgaria, Croatia and Romania have all adopted specialised law enforcement bodies as part of their efforts to curb corruption and end the culture of impunity that permeates these countries. The results achieved are varied. Few countries have also established specialised anti-corruption courts. They have jurisdiction over the offences investigated and prosecuted by special anti-corruption bodies. These are far less common than specialised law enforcement.

In Bulgaria, a specialised court and prosecution office for organised crime became operational in 2012. The court deal with crimes committed by organised criminal groups, including corruption-related crimes. Special court departments were established in Croatia in 2008. These courts have subject matter and territorial jurisdiction of criminal cases. They only hear middle and high-level corruption and organised crime related cases. The judges in the special department have more experience of working on complex cases. They are appointed through the annual schedule by the court president, based on the opinion of the Council of Judges. They also have to pass through a security check. According to Amnesty International, special judges receive higher salaries and are recruited from amongst the most experienced criminal law judges.

In Slovakia, the Specialised Criminal Court was created in 2009. The main rationale for establishing the court was to build the capacity of the judicial system to deal with complicated criminal cases that are often also of great economic and social significance. The specialised criminal court in Slovakia is a court of first instance positioned at the same level as regional courts. Its decision can be appealed to the Supreme Court. It has jurisdiction over criminal matters and it adjudicates on the following offences: fraud and corruption in public procurement, abuse of power, acceptance of a bribe, economic crimes and crimes against property, indirect corruption, creation and promotion of criminal or terrorist groups, crimes committed by criminal or terrorist groups and deliberate killings (Salaudeen,2015). The analysis of corruption related judgments, according to Transparency International report on Slovakia, shows a steep increase in the number of convictions after the establishment of the court –from 25 per cent in 2005 to 75 per cent in 2011. The court is perceived as independent and very professional. Financial as well as human resources are considered to be sufficient and the educational background of judges and the staff is also said to be adequate.

The reason special courts are being proposed is the failure of the court system to facilitate prompt prosecution of suspects. Judges in the regular courts are fond of questionable long adjournments, frivolous injunctions and undue emphasis on technicalities that detract from the essence of corruption trials. The sad commentaries trailing Economic and Financial Crime Commission (EFCC's) efforts in prosecuting corruption cases justify the demand for special courts manned by judges with iron cast will to bring the corrupt to justice and fence off deliberate hindrances stalling quick, diligent and successful prosecution of public officers and other prominent Nigerians docked for corruption.

Waheed (2015) has articulated the needs for Special Courts. According to him, National Council of Muslim Youth Organisations (NACOMYO) recently called for the establishment of special courts to prosecute alleged corrupt Nigerians. NACOMYO's national president, Alhaji Kamal'ddin Akintunde while speaking recently posited that the establishment of such courts would serve as a way of decongesting the conventional courts. He argued that the slow judicial process was being capitalised upon by financial and economic crime offenders to pervert the course of justice. He welcomed the four strategies proposed by President Muhammadu Buhari for fighting corruption, asking the National Assembly to facilitate the bills as soon as it is received. According to him, plea bargaining for treasury looters was an encouragement and not a punishment. It is public knowledge that the EFCC is yet to seek superior court orders to overturn dubious perpetual injunctions against the prosecution of many former governors who ruled between 1999 and 2007 accused of money laundering and frauds running into billions of naira. No tangible result had been achieved in prosecuting them. Worse still, most of them are not just freely enjoying their loot. A lot of them are occupying other political offices particularly in the legislature making laws for the people they had short changed.

It was this kind of helpless situation of the EFCC that prompted the Commission's chairman, Ibrahim Lamorde to make a case for the establishment of special courts to prosecute corrupt persons as a way of facilitating the anti-corruption war. He maintained that the anti-graft agencies are bugged down by the slow process in the regular courts. It will be recalled that the then EFCC Chairman, Mr. Ibrahim Lamorde, had in 2012, when he was being screened by the Senate, called for the establishment of special courts for corruption cases. He had said, the reason for the clamour for special courts for certain cases has to do with the processes of law. Judges have corrupt cases and other cases to attend to, but if we have special courts for corruption cases, it would facilitate the process. I don't think it will be too much to ask that a special court be dedicated to corruption cases Lagos lawyer, Mr. Festus Keyamo, and Executive Chairman of the Coalition Against Corrupt Leaders, Mr. Debo Adeniran, described the plan to create special courts to handle corruption cases as a welcome development.

Adeniran also described the establishment of special corruption courts as desirable. He said such courts would help in quick determination of corruption cases. He said, "It is desirable to the extent that it will hasten up the adjudication on corruption cases and will make it easier for the judges to handle Adeniran also described the establishment of special corruption courts as desirable (Soriwei and Adesomoju,2015:1). To get it done, Lamorde suggested the amendment of the Nigerian Constitution to make provision for special courts to handle corruption-related cases and bring the culprits to book. *"Some relevant laws in the Nigerian Constitution needed to be amended before the adoption of an action plan towards the fight against corruption. The challenge my colleagues and I are facing, especially in the EFCC and ICPC, is issue of prosecution of corruption and economic and financial crime cases in regular courts"* Soriwei and Adesomoju,2015:1).

A former boss of the EFCC, Mrs Farida Waziri, alleged that some senior lawyers were frustrating the fight against corruption by stalling the prosecution of their clients docked by the anti-graft agency. She lamented the activities of such lawyers, who, according to her, fraudulently obtained money from their clients under the guise of delivering same as bribe to officers of the commission to kill cases under investigation. She said the lawyers most often exploit the weakness of the judiciary by filing frivolous applications to frustrate the trial of suspects for corruption and money laundering.

Constitutional lawyer Professor Itse Sagay (SAN) said the establishment of special courts is the best option for the present administration that has zero tolerance for corruption. According to him, the special court will accelerate and give a sharper bite to prosecution of corruption cases in the country. Sagay noted that corruption cases linger for such a long time that there is little hope of timely justice both for plaintiffs and defendants. The purpose of trying a corrupt person in order to serve as deterrent to others is lost as the case drags for long while the suspect facing serious charges of corruption is left to strut about and use proceeds of such crime to thwart the judicial process. He stated:

No doubt, the country needs special courts but it cannot be achieved overnight. It requires Constitutional amendment to give it legal backing. The executive has to send a Bill to the National Assembly for their consideration and approval. It will take between six months and one year to pass the bill (Soriwei and Adesomoju,2015:1).

The Head of the Presidential Advisory Committee against Corruption explained that there are alternatives that could be used pending when the special courts would come on stream. According to him, government can create criminal law division and identify particular judicial officers who have the capacity, integrity, courage and knowledge to do justice without fear or favour. Sagay said: *"Pending the time the special court will get legal backing, government will put in place other alternatives to ensure quick dispensation of corruption cases so that the objective of this administration to fight corruption headlong will be achieved"* Soriwei and Adesomoju,2015:1).

Supporting the call for the establishment of special courts, a lawyer/human rights activist, Mr Monday Ubani said it will enhance President Buhari's anti-graft war. He said if established, the courts will add fillip to the expeditious trial of corruption and related cases that have for long been suffering due to a combination of several factors such as court congestion and the complicity of some unscrupulous members of the bench and the bar to scuttle high profile corruption cases. Ubani observed that the general lethargy, sabotage and scant commitment of the judicial system are the major reasons many Nigerians believe the anti-graft war is deceptive and not working. He believed the proposed special courts to be

established by the Buhari administration to handle corruption and other related cases will buttress the seriousness of the government's resolve to confront corruption.

A Kaduna based lawyer, Mukhtar Modibo endorsed special courts because the nation's judiciary as operated today cannot bring speedy justice to corruption offenders. He observed that corruption cases, like other cases linger for a long time that there is little hope of timely dispensation of justice. Prosecution of corruption cases involving high profile suspects are frustrated due to frivolous applications, questionable injunctions and long adjournments granted by the judges. Modibo noted that the courts are overwhelmed by the sheer volume of cases before them which is responsible for slow adjudication process that is brazenly exploited by suspects. According to him, it is not enough to put in place special courts for corruption. The authority should ensure judges of proven integrity are appointed to preside over them. Otherwise, the objective for setting them up, which is to quicken administration of justice will be defeated. He added:

The courts if established would facilitate the work of the anti-corruption agency. The EFCC, according to him has 1,500 cases pending in various courts across the country; seventy-five per cent of these cases involve high profile persons whose cases have been pending for more than seven years. He suggested that the courts should be established in each of the six geo-political zones of the country Soriwei and Adesomoju,2015:1).

Stakeholders recently met in Abuja and said that the call for special courts to try treasury looters was unnecessary and would amount to wastage of funds. The stakeholders who spoke to News Agency of Nigeria in separate interviews said that existing organs created by law to fight corruption should be strengthened to expedite action on the cases and bring looters to book. Dr Jide Jimoh of the Journalism Department, Lagos State University, told NAN that the setting up special courts for that purpose would amount to duplicating efforts. Jimoh said,

On the surface, it might appear desirable but if we take a long look at it, it may not be sustainable. I do not like this idea of special courts, special ministries and agencies to tackle every challenge that comes up in society. We already have institutions for every conceivable offence in Nigeria; so, why do we need to continue to duplicate efforts? It is a waste of the same resources we are trying to recover and conserve for other developmental purposes. He said that the solution would be to "energise and monitor existing institutions, create financial independence in the judiciary to reduce their vulnerability to executive interference at national and state levels. A problem we may have to solve is the deliberate obstruction of court processes by some lawyers who perpetually rely on technicalities to delay justice. Are we going to ban such lawyers from the special courts? Let us tackle the problems of the judiciary as they arise rather than side-stepping them Soriwei and Adesomoju,2015:1).

Ms Aisha Liman, a political analyst, acknowledged that the suggestion was made against the backdrop of cases dragging in the courts, but said that setting up special courts would only gulp more funds. Stakeholders on Wednesday in Abuja said the call for special courts to try treasury looters was unnecessary and would amount to wastage of funds. The News Agency of Nigeria (NAN) recalls that a chieftain of the All Progressives Congress (APC) on Monday, urged President Muhammadu Buhari to establish special courts to handle cases of treasury looting. The stakeholders who spoke to NAN in separate interviews said that existing organs created by law to fight corruption should be strengthened to expedite action on the cases and bring looters to book.

Ms Aisha Liman, a political analyst, acknowledged that the suggestion was made against the backdrop of cases dragging in the courts, but said that setting up special courts would only gulp more funds. She said:

I am sure that the proposition came because of the notoriety of today's courts. You find cases staying up to three, four years in courts as a result of adjournments, jurisdiction and what have you. But, setting up special courts require money, the extra judges that will be hired will not do it for free. Moreover, the federal government already has all these professionals on its payroll. Why not allow them to carry out their jobs independently without interference (Premium Times Editorial,2015).

In his contribution, Mr Johnchuks Onuanyim, a journalist, told NAN that creating a different court was diversionary and would not solve the problem. Onuanyim said: *“For me, it is not a problem of the special court but the sincerity of the anti-graft agencies and the judiciary.*

“Creating a different court for treasury looters is creating food for the boys and we have seen how such actions ended in the past”(Duru,2015:17).

A Senior Advocate of Nigeria, Mr. Joseph Nwobike, described the establishment of such courts as needless. But Nwobike said that instead of creating special courts, government should focus on capacity building to enhance the competence of investigators and prosecutors. He said, *“It is needless. It will amount to waste of judicial resources to set up special courts to try corruption cases”* (Duru,2015:17). Keyamo, however, urged the government to put certain resources and laws in place for such special courts to achieve their intended goals. He said,

Establishment of special courts will not solve the entire problem of anti-corruption cases and it will not solve all the problems of criminal cases. But it will go a long way if the courts are well equipped and have rules that will help fast track such cases. Special courts will not address the integrity of judges that will be sitting there. It is a welcome development and government should go ahead to establish them but some things should be put in place for the courts to achieve the intended goals(Nwabughio,2015:8).

Furthermore, the challenge, however, would be how the government can make the Special Court happen. To create a new set of courts, the government may be confronted with the task of amending the constitution. An alternative would be to collaborate with the judiciary, to designate some courts to specifically handle corruption-related cases. We believe however that if the government can successfully set up special courts to expeditiously deal with corruption cases, the anti-graft war will be more efficient.

Recommendations

On the basis of the foregoing analysis, we propose the following suggestions, which, could help reposition the anti-corruption commissions and make the current attempt to curb corruption more effective: A restructuring of Anti-corruption agencies' leadership, with a view to bringing on board men and women of high moral standing known for their personal commitments to the crusade against corruption will be required to restore their credibility. In order to win public confidence, support and participation, which are necessary conditions for any successful struggle against corruption, the appointment of the top echelon of the commissions would need to be opened up to some form of public participation. It will be helpful in this regard if the government, involve at least a significant section of the civil society, including opposition parties. The Anti- Corruption Acts should be revisited, with a view to effecting the changes that will empower them to:

1. Monitor potential sources of corruption and investigate individuals on grounds of reasonable suspicion, as against the present practice, where the commission cannot probe anyone, irrespective of the amount of evidence available to it, except upon the receipt of a petition.
2. Probe cases of corruption irrespective of the date of the offence. One way of doing this, is to empower the commission to prosecute such individuals where strong grounds exist in its opinion, but on the basis of previously existing laws.
3. Receive sufficient independent funding, to lessen its dependence on the whims and caprices of the executive and legislature. It could draw its funding from a Consolidated Revenue Fund, as applicable to the judiciary.

4 There is need for a radical and comprehensive reform of Nigeria's institutions for the administration of Criminal justice. Experience has shown that the police and the Judiciary are key institutions which require urgent reforms, in the battle against corruption and other crimes. Anti-corruption agencies officials need to acquaint themselves very well with the provisions of the Act, to avoid running foci of the law. An impartial and non-political body, charged with the responsibility of supervising its operations, to ensure that its operations are done within the limit of its enabling statute will be useful.

Luckily, the new Administration of Criminal Justice Act, 2015, if implemented, will also help to reduce the abuse that criminal trials are fraught with in the country. It is hoped that the Act will bring an end to the abuse of court procedure, through irrelevant applications meant to stall quick trials for criminal offences. Again, the act will arrest the use of frivolous injunctions by especially politically exposed persons, to frustrate their trials. So, if in addition to the new act, special courts are put in place, trials in criminal matters may cease to last for years, as we presently experience.

It is also hoped that the recently reported screening of judges by security agencies, to sift the upright ones from the pack, to man such courts for corruption related cases will further give impetus to the fight against corruption. Considering that the integrity of a judge is the fulcrum of a court of law, we urge the government to be thorough in the screening. There is no doubt that unless the guilty are confronted with their sins before upright judges, the chances of wriggling out from conviction are higher, as our recent experience showed. As we witnessed in recent past, a number of judges had handed out ridiculous sentences, or mere fines, for serious criminal offences. While a few of them later got sanctioned for their misconduct, the beneficiaries of the miscarriage of justice got away based on those ridiculously light punishments. So, the sanctity of the judicial process, which hinges on the integrity of the judges and other judicial officers, is fundamental to a successful prosecution of the war on corruption.

Conclusion

In view of the above, this article has reviewed Nigeria's recent attempts at fighting corruption, focusing specifically on the politically exposed persons and the principal anti-corruption institutions, the ICPC, EFCC which as we have seen have failed to curb corruption especially among the political class. Rather than secure the conviction of these corrupt officials, the reason for why it was established, ICPC and EFCC have become politicised and neck-deep in damaging controversies, losing its credibility in the process. So that it is now seen by some as a mere instrument for witch-hunting political enemies. Its dismal performance has been partly due to its own many internal contradictions and administrative problems, but more fundamentally, to systemic factors outside its control, i.e. the prevailing néo-patrimonial orientation of the political class who politicised the exercise and used the deficiencies in the legal system to frustrate attempts to combat corruption in Nigeria. This has destroyed public confidence in the ongoing efforts to fight corruption, and eroded the legitimacy of the principal agency for the war against graft.

The just-concluded conference of the Nigerian Bar Association (NBA), which happened to be its 55th annual general conference, was a timely event. As the country undertake a soul searching with the current regime of government, it is important that the bar men and women should equally undertake deep soul searching on their pivotal role in national development. This is essentially because the preponderance of all nefarious activities in the country is borne out of the colossal failure of the judicial system to hold offenders accountable for their deeds at every level.

These developments are not completely unexpected, given that, at birth, ICPC and indeed its enabling status, did not receive a very warm reception from all sections of the political class. State Governments and the federal legislature had right from the beginning been very suspicious of its powers, which explain why it took the lawmaking body one full year to pass the Bill in to law, after injecting the clause that the President and his Vice along with the governors and their deputy should not be immune from similar probe. Several state governments also registered their opposition to the anti-corruption law which they said was a violation of the constitution. These challenges foretold the kind of opposition which ICPC is to confront.

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