

# A COMPARATIVE ANALYSIS OF THE LEGAL REGIME AGAINST CORRUPTION AS AGAINST THE INTERNATIONAL BEST PRACTICES

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**ABSTRACT:** This paper undertakes a critical review of the ongoing war on corruption being undertaken by Nigeria's Current President: Muhammadu Buhari, the modus operandi of the said war on corruption vis-à-vis the provisions of the constitution of the Federal Republic of Nigeria, 1999, as amended and impacts on the rights and liberties of individuals under Nigeria's existing domestic legal regime and international law. The Paper begins with an appraisal of (i). What Corruption is, (ii). Current efforts at dealing with the scourge of corruption under President Muhammadu Buhari regime, (iii). President Buhari's war against corruption vs. Personal rights and liberties of Nigerians under the Constitution of the Federal Republic of Nigeria, 1999, as amended, other existing domestic statutory provisions and international law. This is followed by a conclusion. We shall now begin with an examination of the term corruption.

**Key Words:** Corruption, Legal Regime, International Best Practices, Justice,

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## INTRODUCTION

There is no generally accepted definition of corruption as several definitions have been offered by various authorities. Essentially however, corruption encompasses references to illegal acts which are related to power or offices, official institutions, civil services and other political spheres, or in relation to personal and monetary gain that is involved for the corruptor. According to Brasz,<sup>1</sup> corruption is a perversion of power. To Deflam Mathieus<sup>2</sup> "corruption is a colonization of social

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1. Brasz, H.A (1978) "The Sociology of Corruption" in A.J.G Heidenheimer (ed), Political Corruption: Reading in Comparative Analysis:.. New Brunswick, NJ Transaction Books, pp.41-45
2. Deflam, M. "Corruption, Law and Justice: As Conceptual Clarificaton" Journal of Criminal Justice, (1995)pp.243-258

relations in

which two or more actors undertake an exchange relation by way of a successful transfer of a steering – media, money or power, thereby side-stepping the legally prescribed procedure to regulate the relation." In the words of Enweremadu, corruption is:

*“The abuse of public office for private gain. This includes situations where “public official accept, solicit, or extort bribes; and where private actors offer bribes to subvert or circumvent public policies for competitive advantage and profit. Corruption can however occur in the absence of bribes. For example, the World Bank considers patronage or nepotism by government official, theft of state assets, or the illegal diversion of state revenues as corruption”<sup>3</sup>*

An exhaustive research on the word Corruption is obtainable from [https://en.wikipedia.org/wiki/Corruption#cite\\_ref-1](https://en.wikipedia.org/wiki/Corruption#cite_ref-1) where a cocktail of definitions are assembled. Corruption is seen as “a form of [dishonest](#) or unethical conduct by a person entrusted with a position of authority, often to acquire personal benefit<sup>4</sup> and may include many activities including [bribery](#) and [embezzlement](#), though it may also involve practices that are legal in many countries.<sup>5</sup> Ancillary, “[Government, or 'political', corruption](#) occurs when an office-holder or other governmental employee acts in an official capacity for personal gain”.

The said authors have traced the root word “**corrupt**” when used as an adjective to mean “utterly broken”.<sup>6</sup> The word was said to have been first used by [Aristotle](#) and later by [Cicero](#) who added the terms bribe and abandonment of good habits.<sup>7</sup> Stephen D. Morris,<sup>8</sup> a Professor of politics, have also said that “political corruption” to mean the illegitimate use of public power to benefit a private interest”. The Economist Ian Senior,<sup>9</sup> however, “corruption consists of :

3. Enweremadu, D.U: The Vicious Circle: Oil, Corruption, and Armed Conflicts in the Niger Delta, being a paper presented at the International Conference on the Nigerian State, Oil Industry and the Niger Delta, p.448
4. Corruption can be illegal, but also can involve legal conduct in many countries. See [Black's Law Dictionary](#) for legal definition. See also [worldbank.org](http://www.worldbank.org) paper noting that corruption “may involve collusion between parties typically both from the public and private sectors, and may be legal in many countries”
5. [http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/Legal\\_Corruption.pdf](http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/Legal_Corruption.pdf)
6. “[Corrupt | Define Corrupt at Dictionary.com](#)”. [Dictionary.reference.com](#). Retrieved 2010-12-06.
7. Llaca, E.G. (2005), La Corrupcion: Patologia Colectiva [Corruption: Collective Pathology], INAP/CNDH/FCPSUAM, Ciudad de México
8. Morris, S.D. (1991), Corruption and Politics in Contemporary Mexico. University of Alabama Press, Tuscaloosa
9. Senior, I. (2006), Corruption - The World's Big C., Institute of Economic Affairs, London

(a) secretly providing (b) a good or a service to a third party (c) so that he or she can influence certain actions which (d) benefit the corrupt, a third party, or both (e) in which the corrupt agent has authority” [Daniel Kaufmann](#),<sup>10</sup> of the World Bank has however extended the concept to include, what he calls 'legal corruption' in

which case, power is abused within the confines of the law — as those with power often have the ability to make laws for their protection. A further examination of [https://en.wikipedia.org/wiki/Corruption#cite\\_ref-1](https://en.wikipedia.org/wiki/Corruption#cite_ref-1) shows that there are different scales and types of corruption which range from systematic corruption, petty corruption, grand corruption<sup>11</sup>.

Findings by [https://en.wikipedia.org/wiki/Corruption#cite\\_ref-1](https://en.wikipedia.org/wiki/Corruption#cite_ref-1) also indicate factors which encourage systemic corruption to include “[conflicting incentives](#), [discretionary powers](#); [monopolistic powers](#); lack of [transparency](#); low pay; and a culture of [impunity](#).”<sup>12</sup> Specific acts of corruption include "bribery, extortion, and embezzlement" in a system where "corruption becomes the rule rather than the exception."<sup>13</sup> Other Scholars have distinguished between centralized and decentralized systemic corruption, depending on which level of state or government corruption takes place; in countries such as the [Post-Soviet states](#) both types occur.<sup>14</sup> Some scholars argue that there is a negative duty of western governments to protect against systematic corruption of underdeveloped governments”.<sup>15&16</sup>

Corruption in different sectors, identified by scholars and classified by [https://en.wikipedia.org/wiki/Corruption#cite\\_ref-1](https://en.wikipedia.org/wiki/Corruption#cite_ref-1) include: Government/public Sector,<sup>17</sup> political corruption,<sup>18&19</sup> police corruption, judicial corruption,<sup>20&21</sup>

10. [Kaufmann, Daniel](#); Vicente, Pedro (2005). "[Legal Corruption](#)" (PDF). World Bank.
11. "[Glossary](#)". U4 Anti-Corruption Resource Centre. Retrieved 26 June 2011.
12. Lorena Alcazar, Raul Andrade (2001). *Diagnosis corruption*. pp. 135–136. ISBN 978-1-931003-11-7
13. Znoj, Heinzpeter (2009). "Deep Corruption in Indonesia: Discourses, Practices, Histories". In Monique Nuijten, Gerhard Anders. *Corruption and the secret of law: a legal anthropological perspective*. Ashgate. pp. 53–54. ISBN 978-0-7546-7682-9.
14. Legvold, Robert (2009). "Corruption, the Criminalized State, and Post-Soviet Transitions". In Robert I. Rotberg. *Corruption, global security, and world order*. Brookings Institution. p. 197. ISBN 978-0-8157-0329-7.
15. Merle, Jean-Christophe, ed. (2013). "Global Challenges to Liberal Democracy". *Spheres of Global Justice I*: 812.
16. Pogge, Thomas. "[Severe Poverty as a Violation of Negative Duties](#)". thomaspogge.com. Retrieved 8 February 2015.
17. Hamilton, Alexander (2013). "[Small is beautiful, at least in high-income democracies: the distribution of policy-making responsibility, electoral accountability, and incentives for rent extraction](#)" (PDF). World Bank.
18. "[SOS, Missouri – State Archives Publications](#)". Sos.mo.gov. Retrieved 2013-04-19.
19. Hamilton, A.; Hudson, J. (2014). "[Bribery and Identity: Evidence from Sudan](#)" (PDF). Bath Economic Research Papers, No 21/14.
20. Barenboim, Peter (October 2009). *Defining the rules*. Issue 90. *The European Lawyer*.
21. Pahis, Stratos (2009). "[Corruption in Our Courts: What It Looks Like and Where It Is Hidden](#)". *The Yale Law Journal* 118. Retrieved 1 August 2015.

corruption in educational system/universities,<sup>22-46</sup> corruption within labour unions.<sup>47</sup>

22. [Osipian, Ararat. \(2013\). Recruitment and Admissions: Fostering Transparency on the Path to Higher Education. In Transparency International: Global Corruption Report: Education \(pp. 148-154\). New York: Routledge, 536 p.](#)
23. [Osipian, Ararat. \(2015\). Global and Local: Standardized Testing and Corruption in Admissions to Ukrainian Universities. In Carolyn A. Brown \(Ed.\), Globalisation, International Education Policy, and Local Policy Formation \(pp. 215-234\). New York: Springer.](#)
24. [Osipian, Ararat. \(2009\). Vouchers, Tests, Loans, Privatization: Will They Help Tackle Corruption in Russian Higher Education? Prospects: Quarterly Review of Comparative Education, 39\(1\), pp. 47-67.](#)
25. [Osipian, Ararat. \(2012\). Education Corruption, Reform, and Growth: Case of Post-Soviet Russia. Journal of Eurasian Studies, 3\(1\), pp. 20-29.](#)
26. [Osipian, Ararat. \(2009\). The Impact of Human Capital on Economic Growth: A Case Study in Post-Soviet Ukraine, 1989-2009. New York: Palgrave Macmillan, 256 p.](#)
27. [Osipian, Ararat. \(2013\). Corrupt Organizations: Modeling Educators' Misconduct with Cellular Automata. Computational & Mathematical Organization Theory, 19\(1\), pp. 1-24.](#)
28. [Osipian, Ararat. \(2009\). Corruption Hierarchies in Higher Education in the Former Soviet Bloc. International Journal of Educational Development, 29\(3\), pp. 321-330.](#)
29. [Osipian, Ararat. \(2010\). Corrupt Organizational Hierarchies in the Former Soviet Bloc. Transition Studies Review, 17\(4\), pp. 822-836.](#)
30. [Osipian, Ararat. \(2014\). Will Bribery and Fraud Converge? Comparative Corruption in Higher Education in Russia and the USA. Compare: A Journal of Comparative and International Education, 44\(2\), pp. 252-273.](#)
31. [Osipian, Ararat. \(2008\). Corruption in Higher Education: Does it Differ Across the Nations and Why? Research in Comparative and International Education, 3\(4\), pp. 345-365.](#)
32. [Osipian, Ararat. \(2012\). Grey Areas in the Higher Education Sector: Legality versus Corruptibility. Brigham Young University Education and Law Journal, 1\(1\), pp. 140-190.](#)
33. [Osipian, Ararat. \(2009\). Investigating Corruption in American Higher Education: The Methodology. FedUni Journal of Higher Education, 4\(2\), pp. 49-81.](#)
34. [Osipian, Ararat. \(2010\). Corruption in the Politicized University: Lessons for Ukraine's 2010 Presidential Elections. Innovation: The European Journal of Social Science Research, 23\(2\), pp. 101-114.](#)
35. [Osipian, Ararat. \(2012\). Loyalty as Rent: Corruption and Politicization of Russian Universities. International Journal of Sociology and Social Policy, 32\(3/4\), pp. 153-167.](#)
36. [Osipian, Ararat. \(2008\). Political Graft and Education Corruption in Ukraine: Compliance, Collusion, and Control. Demokratizatsiya: The Journal of Post-Soviet Democratization, 16\(4\), pp. 323-344.](#)
37. [Osipian, Ararat. \(2009\). "Feed from the Service": Corruption and Coercion in the State—University Relations in Central Eurasia. Research in Comparative and International Education, 4\(2\), pp. 182-203.](#)
38. [Osipian, Ararat. \(2012\). Who is Guilty and What to Do? Popular Opinion and Public Discourse of Corruption in Russian Higher Education. Canadian and International Education Journal, 41\(1\), pp. 81-95.](#)
39. [Osipian, Ararat. \(2007\). Higher Education Corruption in Ukraine: Opinions and Estimates. International Higher Education, 49, pp. 20-21.](#)
40. [Osipian, Ararat. \(2012\). Economics of Corruption in Doctoral Education: The Dissertations Market. Economics of Education Review, 31\(1\), pp. 76-83.](#)
41. [Osipian, Ararat. \(2010\). Le Bourgeois Gentilhomme: Political Corruption of Russian Doctorates. Demokratizatsiya: The Journal of Post-Soviet Democratization, 18\(3\), pp. 260-280.](#)
42. [Osipian, Ararat. \(2014\). Transforming University Governance in Ukraine: Collegiums, Bureaucracies, and Political Institutions. Higher Education Policy, 27\(1\), pp. 65-84.](#)
43. [Osipian, Ararat. \(2008\). Corruption and Coercion: University Autonomy versus State Control. European Education: Issues and Studies, 40\(3\), pp. 27-48.](#)
44. [Osipian, Ararat. \(2007\). Corruption in Higher Education: Conceptual Approaches and Measurement Techniques. Research in Comparative and International Education, 2\(4\), pp. 313-332.](#)
45. [Heyneman, S. P., Anderson, K. H. and Nuraliyeva, N. \(2008\). The cost of corruption in higher education. Comparative Education Review, 51, 1–25.](#)
46. [Graeff, P., Sattler, S., Mehlkop, G. and Sauer, C. \(2014\). "Incentives and Inhibitors of Abusing Academic Positions: Analysing University Students' Decisions about Bribing Academic Staff" In: European Sociological Review 30\(2\) 230–241. \[10.1093/esr/jct036\]\(https://doi.org/10.1093/esr/jct036\)](#)
47. ["FBI — Italian/Mafia". \*Fbi.gov\*. Retrieved 2014-04-24.](#)

**Similarly**, methods/aims<sup>48</sup> of corruption identified by the afore mentioned site identifies bribery,<sup>49</sup> extortion and blackmail, abuse of discretion, favoritism, nepotism and clientelism.

For a deep further study on the subject: corruption, the author refers interested readers to [https://en.wikipedia.org/wiki/Corruption#cite\\_ref-1](https://en.wikipedia.org/wiki/Corruption#cite_ref-1).

Existing research findings on the increased incidences of corruption, in Nigeria, have established, amongst other things, that there is a correlation between increased oil revenues, authoritarian rule, economic decay and political instability.

The advent of oil money in Nigeria, corruption and the impact on the development of nations of the world generally and Nigeria, in particular have long been a subject of concern to researchers and developmental institutions. Quite a number of studies have shown that increase in oil revenues encourage corruption, authoritarian rule, economic decay and political instability.<sup>50</sup> More recent works, including notably the one by Schubert<sup>51</sup> and Smith,<sup>52</sup> have focused on how oil wealth induce corruption and compromise good governance.<sup>53</sup> For example, it has since been established that there is a direct linkage between corruption in the Niger Delta region and the incidences of militancy among youths in the said Region at the peak of the crises at the time.

48. *"United Nations Handbook on Practical Anti-Corruption Measures For Prosecutors and Investigators"* (PDF). United Nations Office on Drugs and Crime (UNODC). Retrieved 3 November 2012.
49. Wang, Peng (2013). "The rise of the Red Mafia in China: a case study of organised crime and corruption in Chongqing". *Trends in Organized Crime* **16** (1): 49–73. doi:10.1007/s12117-012-9179-8.
50. Oneje, K: (ed), *The Rentier State: Extractive Economies and Conflicts in the Global South*, Aldershot, Ashgate, 2007; J.D. Fearon, "Primary Commodity Exports and Civil War" in *Journal of Conflict Resolution*, Vol.49, No.4 2005 pp.483-507
51. Schubert R.S. "Revisiting the Oil Curse: Are Oil Rich Nations Really Doomed to Autocracy and Inequality?" in *Oil and Gas Business*, 2006. quoted in Enweremadu D.U: Op cit p.448
52. Smith D.J.: *A Culture of Corruption. Everyday Deception and Popular Discontent in Nigeria*, Princeton University Press, (2007) pp.1-30
53. While Smith's work, which is devoted solely to Nigeria, shows how a culture of corruption, London, Christian Aid, 2005, Samuel R: *Massive oil wealth, is fueling popular discontent across Nigeria, with potential for widespread social unrest*. Schubert, on the other hand, provided direct evidence showing the specific way in which oil fuel corruption.

In the words of Former Governor DSP Alamieyeseigha of Bayelsa State, for example:

*“From our observation, most of the people entrusted with the responsibility of administering the new local government areas lacked basic leadership qualities. They were found wanting in probity, transparency, mature judgment and sense of direction. I have learnt to my utmost dismay that some of the former chairmen exhibited financial indiscipline through over-inflation of contract values, frivolous spending and gross mismanagement, among other sharp practices. Some chairmen used their station in the local government councils as conduit-pipes to siphon scarce resources”.*<sup>54</sup>

The negative impact of corruption on societal governance is that, almost always funds accruable or budgeted for the delivery of social services are diverted to the personal aggrandizement of persons in authority<sup>55</sup> and in effect deprive the populace of their entitlements in term of social services. The immediate consequence of this development is that, society experiences state failure arising from the inability of state government to provide necessary social services provided under law. And almost in all cases, state failure is known to incite crises and tensions in society. An editorial commentary of the Guardian Newspapers<sup>56</sup> put the scourge of corruption in Nigeria, at a time, in the following telling commentary:

*“The bribery and corruption going on in Nigeria has reached such grave proportion that continued pussyfooting on this subject will ultimately damage the country irretrievably. ...The United Nations has estimated that between 1960 and 1999, Nigeria lost \$400 billion stashed in foreign bank accounts by corrupt Nigerians. Amnesty International has consistently ranked Nigeria as one of the most corrupt countries in the world. Against the logic of our resource endowment and developmental potential, Nigeria has remained one of the most underdeveloped countries in the world with three quarters of our population currently scraping a miserable living on less than a dollar a day. As a result of repeated policy failures, Nigerians have no access to electricity or water and now cannot afford to eat well. We have become a nation where nothing works because the few that have access to our national patrimony have commandeered our collective wealth and left the rest of us stranded and traumatized..... Nigeria ranks low in almost every human developmental index, but we excel in corruption.”*

54. Despite these flagrant abuses, ICPC could neither arrest nor arraign governor Alamiyeseigha before the law courts, thanks to section 308 of the Nigerian Constitution which granted all 36 state governors and their deputies' immunity against such legal actions

55. See Charge to Chairmen of Caretaker Committees of Local Governments, in Nengi Joseph Ilagha (ed), DSP Alamiyeseigha: The Landmark Speeches, (Vol. One), Yenagoa, Bayelsa State Government also see generally Enweremadu, op cit pp.449-456 It was alleged for example, Governor Alamiyeseigha distributed the sum of 100million to each member of the Bayelsa State House of Assembly so that they could turn a blind eye to the reported looting of the Bayelsa State resources by the said Governor

56. See the Guardian, Lagos, Sunday, September 14, 2008, p.10

*“The President must be told that the greatest impediment to our country’s development is corruption and unless and until this systemic cancer is exorcised from our society, our people will continue to wallow in poverty and misery in the midst of plenty.”<sup>57</sup>*

## **1. CURRENT EFFORTS AT DEALING WITH THE SCOURGE OF CORRUPTION UNDER PRESIDENT MOHAMMADU BUHARI REGIME**

Nigeria’s current President, Mohammadu Buhari rode to power with his All Progressives Congress Party (APC) in the year 2015 after the general elections which led to the ousting of the President Goodluck Jonathan – led Federal Government. The president and his party, the APC, promised to vigorously deal with the issues of corruption in governance, insecurity, occasioned by the onslaught of the Boko-Haram Islamic Sect on the North-Eastern region of Nigeria which has led to massive destruction of Life and property.<sup>58</sup> and the dwindling economic fortunes of the Nigerian Nation. Since assuming power as President of the Federal Republic of Nigeria, evidence abound that a relentless war on corruption is going on in Nigeria. Hardly does a day passes without one report or the other in the national media, in Nigeria, chronicling the arrest of one former important government official or the other on charges of corruption and or stealing of public funds by the hitherto comatose anti-graft agencies (i.e the Economic and Financial Crime Commission, EFCC and other similar agencies) in Nigeria. However, in what looks like a media trial of some sort, the Nigerian Press, has, to say the least, dramatized the arrests, detention, attempts at taking accused persons on bail, the serial failures of the accused persons to get bail, the rising tendencies on the part if the Government in power to ensure that persons arrested for corruption charges hardly or do not get bail. Random references to the issues making headlines in the Nigerian Daily in the last nine months or so bears the above view out and present before the reader the magnitude or volumes of money purportedly or allegedly stolen and reports of denials as reported by the newspapers. In a banner headline of THE NATION NEWSPAPERS: [www.thenationonline.ngo.net](http://www.thenationonline.ngo.net) of December 17, 2015,<sup>59</sup> for example, is the caption **“N31b, loot: EFCC goes after Dasuki’s Yuguda’s assets”. “I gave N600m to George, Odito, Bafawara, Nwobodo, others, Ex-Ministers Yuguda”<sup>60</sup>.**

57. Ibid. see generally an earlier version of this work in my related article on ABILA S.E, “THE CHALLENGES OF CORRUPTION, POVERTY, IMPROPER ADOPTION OF CORPORATE SOCIAL RESPONSIBILITY PRINCIPLES AND CONSTRAINTS TO ENVIRONMENTAL JUSTICE IN THE NIGER DELTA REGION OF NIGERIA”. [https://www.linkedin.com/in/dr-sylvanus-abila-898008108?trk=nav\\_responsive\\_tab\\_profile](https://www.linkedin.com/in/dr-sylvanus-abila-898008108?trk=nav_responsive_tab_profile).
58. See this author’s earlier works as follows; ABILA, S.E “A Synopsis of the Boko-Haram Insurgency, Terrorism and International Law. [https://www.linkedin.com/in/dr-sylvanus-abila-898008108?trk=nav\\_responsive\\_tab\\_profile](https://www.linkedin.com/in/dr-sylvanus-abila-898008108?trk=nav_responsive_tab_profile), and ABILA, S. E “LAW, COMPARATIVE AND HISTORICAL PERSPECTIVES OF INSURGENCIES TERRORISM IN NIGERIA AND EMERGING GLOBAL TRENDS”, [https://www.linkedin.com/in/dr-sylvanus-abila-898008108?trk=nav\\_responsive\\_tab\\_profile](https://www.linkedin.com/in/dr-sylvanus-abila-898008108?trk=nav_responsive_tab_profile).
59. THE NATION, VOL 10, NO. 3429 THURSDAY, DECEMBER 17, 2015, pp 1 and 6.

Other interesting reports in the Nigerian Media on Corruption worthy of note include, that of Daily Sun ‘shocking revelation in nimasa fraud case. I got n905m for doing nothing-witness prosecution’<sup>61</sup>, ‘DASUKI: I was acting on Jonathan’s Instructions’.  
\*N10b PDP ‘Cash given to former President’s ADC, aide’ \* ‘I’ve no foreign accounts, company’ \*N10b came from oil block accounts’<sup>62</sup>, N31B FRAUD. Anenih, George, Odili, others may refund N630m slush fund \* Former, Serving PDP House of Representatives members too, \* How ex-president Jonathan gave Dasuki, Yuguda directives<sup>63</sup>. Others include, the report of SUNDAY SUN with the headline “\$2.1BN SCANDAL, Ex-Service Chief’s Trial Good For Military- Former Army Chief.”<sup>64</sup>, the report of the THIS DAY newspapers with the headline “Buhari Gives Marching Order to EFCC, Security Agencies to Arrest Ex-Customs Boss... (and) “ICC considers Petition Against Dasuki, Okonjo-Iweala, Others \*Again, Prosecution’s failure to produce ex-NSA stalls his trial”, N620m Bribery Allegation: Court Begins Trial of Farouk Lawan”.<sup>65</sup> “Dasuki, others will abscond if granted bail- EFCC”, “Anti-graft war, PDP’s day of reckoning says APC”<sup>66</sup>. Familiar related headlines in the newspapers within the period covered by this paper also include the following “We’ll soon name ex-govt officials who returned loot- Buhari \* Says no Friends, no foe in fight against corruption \* President will step on big toes- Garba Shehu”, “This Day Publisher Obaigbena writes EFCC, explain N670m collected fro ex-NSA’s office \* Our story, by The Nation”, “Dasuki’s Ex-Account Officer Implicates Sambo’s Office, Says ex-VP’s Office got N20m Monthly, \*Yuguda, Bafarawa, Others to account for N18.9bn cash got for Operation Capture north-West for PDP, \* Ex-minister got another \$9.8m within two months”<sup>67</sup>. The bold headline on Saturday Vanguard is “Corruption: Buhari will soon face Obasanjo- Useni and Court goes tough on Tompolo \* others seizure of his muti-billion naira property”<sup>68</sup>. And in THE GUARDIAN,<sup>69</sup> is the headline “Dasuki Challenges FG for putting him on Trial”. And in THE DAILY TRUST<sup>70</sup> are the following notable headlines “Obasanjo writes Saraki, Dogara, says N/Assembly is corrupt”, “Arms Deal: I’ll talk at the right time- Jonathan”. While the screaming headline of THE GUARDIAN is as follows, “Civil Servant panic over order to declare assets, \* BVN exposes links loots, \*EFCC, ICPC, CCB move against corrupt workers”<sup>71</sup>.

61. 19. DAILY SUN. [www.sunnewsonline.com](http://www.sunnewsonline.com). Wednesday, February 3, 2016 Vol 10 NO. 3333 pp 1 and 2
62. THE NATION. [www.thenationonlineeng.net](http://www.thenationonlineeng.net) Vol. 10, NO. 3427 Monday, December 14, 2015, pp 1 and 6
63. THE NATION. [www.thenationonline.eng.net](http://www.thenationonline.eng.net) Vol. 09, NO. 3435 Sunday, December 20, 2015, pp 1, 6,16&17
64. SUNDAY SUN. [www.sundaysunonline.com](http://www.sundaysunonline.com) February 7, 2016. Vol. 10 NO. 668. Pp 1, 14 &15
65. THIS DAY [www.thisdaylive.com](http://www.thisdaylive.com) Wednesday 3 February, 20 2016 Vol. 21, No. 7587. Pp 1, 6, 10 & 12
66. THE PUNCH [www.punchng.com](http://www.punchng.com) Tuesday, December 15, 2015 Vol 39 NO. 21,072. Pp 1, 2 & 9.
67. THE NATION [www.thenationonline.eng.net](http://www.thenationonline.eng.net) Vol. 010 NO 3425 Saturday, December 12, 2015. Pp 1, 4 &5.
68. SATURDAY VANGUARD [www.vanguard.com](http://www.vanguard.com) Vol 17: No. 992, February 20, 2016, pp 1, 5 and 15
69. THE GUARDIAN [www.ngrguardiannews.com](http://www.ngrguardiannews.com) Vol. 32. No. 13, 539 Saturday, January 23, 2016 pp 2.
70. THE DAILY TRUST [www.dailytrust.com.ng](http://www.dailytrust.com.ng) Thursday, January 28, 2016 Vol. 39, No 19. Pp 1, 3 & 5
71. THE GUARDIAN [www.ngrguardiannews.com](http://www.ngrguardiannews.com) Vol 32, NO 13,565. Thursday, February 18, 2016. Pp. 1 &7



Giving the importance of the ongoing hype of the fight against corruption in Nigeria, it is also necessary, perhaps, to consider few more media reports in Nigeria. In THE DAILY SUN<sup>72</sup>, were the following headlines: **“Diezani’s husband, Admiral Alison Madueke, Quizzed \*Witness Exposes Ex-minister’s role in choice of oil firms”** and **“EFCC re-arraigns Dokpesi over N2.1bn fraud. Bail intact”**. DAILY SUN<sup>73</sup> **“Federal Government Uncovers 23,306 ghost workers on payroll \* To probe civil servants, banks over multiple salary scam”**. While THE GUARDIAN<sup>74</sup> reported President Buhari as saying that **“Judiciary my main headache in anti-graft drive”, \*” EFCC to arraign Bashir Adebayan from today, \* Government reviews contracts with Chinese Firms”** and the details of **“How Allison-Madueke granted N4.8tr oil swap without contract, \*NNPC ex-chief names Duke Oil. Trafigura in deal”**<sup>75</sup>. In the DAILY SUN<sup>76</sup>, were the following headlines: **“I’ll handcuff more people, \*Magu, EFCC chair, blows hot, \* we’re investigating all allegations against Lamore”, “We’re all corrupt, \*Ex-Gov. Bafarawa’s bombshell Says 90% Nigerians involved”**<sup>77</sup>. Other very revealing stories include the ones captured in THE GUARDIAN<sup>78</sup> **“EFCC sends Interpol after fleeing suspects, \* more than 40 person seized in two months, \* Commission, auditor to co-operate, fault Asian countries’ stance”**. **“EFCC probes Okonjo-Iweala, Allison-Madueke, Oil Sector, \* Court rules against Dasuki’s discharge, grant him N250m bail, \* Badeh visits anti-graft agency, uncertainty over detention.”**<sup>79</sup>. **“Obasanjo, Jonathan under probe over Abuja master plan, \*Senate may sanction El-Rufai, Aliero, Modibo for illegal plots’ allocaton”**<sup>80</sup>. etc.

It is important at this point to highlight the state of the present war against corruption in Nigeria by quoting in *extenso* the report contained in THE GUARDIAN on Friday, February, 2006, pp 1 and 6 where it summarized the ongoing war against corruption in Nigeria as follows:

*“if the current drive of the Economic and Financial Crimes Commission (EFCC) to recover looted funds, both from the arms deal and other sources, is maintained, the commission may be on its way to retrieving N1.5 trillion which will help to revive the economy.....”*

72. DAILY SUN [www.sunnewsonline.com](http://www.sunnewsonline.com) Thursday, February 18, 2016. Vol 10 NO 3343. Pp 1 & 6

73. DAILY SUN [www.sunnewsonline.com](http://www.sunnewsonline.com) Friday, February 5, 2016. Vol 10 No.3335. pp 1 & 7

74. THE GUARDIAN [www.nguardiannews.com](http://www.nguardiannews.com) Monday, February 1, 2016. Vol 32, No. 13, 548. Pp. 1 & 7.

75. THE GUARDIAN [www.nguardiannews.com](http://www.nguardiannews.com) Wednesday, February 17, 2016. Vol 32, No. 13, 564. Pp.1 & 6

76. DAILY SUN [www.sunnewsonline.com](http://www.sunnewsonline.com) Friday, February 19, 2016. Vol 10 No. 3344 pp 1 & 7

77. DAILY SUN [www.sunnewsonline.com](http://www.sunnewsonline.com) Monday January 25, 2016. Vol 10 No. 3326 pp 1 and 38

78. THE GUARDIAN [www.nguardiannews.com](http://www.nguardiannews.com) Wednesday, February 24, 2016. Vol 32, No. 13,571 pp 1

79. THE GUARDIAN [www.nguardiannews.com](http://www.nguardiannews.com) Tuesday, February 9 2016. Vol 32, No 13,556. Pp 1

80. THE GUARDIAN [www.nguardiannews.com](http://www.nguardiannews.com) Thursday, February 11, 2016, Vol32, No 13 558. Pp 1

*The total of the amounts in most of the corruption cases being investigated and those already in court is N1.5 trillion. And as confirmed by the Acting Chairman of the EFCC, Ibrahim Magu recently in Abuja, the commission has already recovered billions. “We have many corruption cases in court. We are getting them every day from everywhere and we are recovering stolen money and taking corrupt people to court. The money we have recovered and the money we are going to get back from them billions and billions of naira-is being paid back to government and will be used to do what it was originally meant for-build roads and railways, create employment and defend our country”, Magu had said.*

*The arm procurement scam involving former National Security Adviser, Sambo Dasuki is to the tune of \$2.1 billion and another N643 billion. Out of this amount, prominent Nigerians including former Minister of Defence, Haliru Mohammadu and his son, former Minister of State for Finance, Bashir Yuguda, former governor of Sokoto State, Attahiru Bafarawa and son, are alleged to have shared from this amount.*

*Others alleged to have shared from the arms deal under Dasuki include some elder statesmen such as Chief Tony Amenih.*

*Another tranche of the arms deal being investigated and which involves the Nigerian Air Force (NAF) and former and serving service chiefs is worth \$2billion and another N29 billion.*

*For this investigation, former service chiefs, Alex Badeh, Adeshola Amosu and others are being detained by the EFCC.*

*The Army last week, also forwarded names of about 15 officers to the EFCC on the matter, stating that if found culpable they would be court-martialed.*

*Other money allegedly stolen by individuals includes about N37 billion involving former Nigerian Maritime and Safety Agency (NIMASA) boss, Patrick Akpobolokemi who has five cases in court being prosecuted by the EFCC. One of the cases involve N34 billion Maritime University land scam in which he was linked to former Niger Delta militant, Government Ekpemupolo also known as Tompolo. Another case against Akpobolokemi involves N2.6 billions aside from three other cases involving different amounts of money.*

*The newest in the cases being prosecuted is the one involving former Minister of interior, Abba Moro and five others worth about N676 million allegedly got from applicant in the failed immigration recruitment scam of March 2013. This money if recovered may have to go back to the applicants.*

*It is not yet clear how much may come from the planned probe of the pretroleum industry, as the EFCC is currently investigating former Ministers of Finance, Ngozi Okonjo-Iweala and former minister of Petroleum Resources, Diezani Alison-Madueke.*

*The commission interrogated Alison-Madueke's husband some days back. The commission is yet to invite Okonjo-Iweala and Alison-Madueke though about \$2.1 billion and another N643 billion, NAF: \$2 billion and another N29 billion; Abba Moro and other N676 million; Akpobolokemi, Tompolo: N34 billion; Akpobolokemi: 2.6 billion. The summation of these funds amounts to 1.5 trillion, using N200 as exchange rate for the dollar components.*

*This N1.5 trillion would be a fraction of the amount to be recovered by the EFCC because several other corruption cases inherited by the Muhammadu Buhari administration are still on-going in courts. They include cases involving former governors. Those still being investigated and prosecuted in this category include the chairman of the People Democratic Party (PDP), Ali Modu Sheriff a former governor of Imo State, Ikedi Ohakim and others. So far in the arm procurement case, about 40 persons have been arrested by the EFCC, starting with Col. Sambo Dasuki himself.*

*Since the EFCC seized Sambo Dasuki, scores of other from politicians to military personnel, to persons in the oil and petroleum industry as well as the media have also been arrested and quizzed. They include former Air Marshal Alex Badeh, Air Marshal Adeshola Amosu, Ex- Chief of Air Staff, Air Marshal M.D Umar; Col. N. Ashiinke and AVM A. M. Mamu. Others are AVM O.T Oguntoyinto. AVM R.A Ojuawo; AVM J.B, Adigun; and AVM JA Kayode-Baekley; AVM T Omenyi, Air Cdre A.O Ogunjobi; Air Cdre GMD Gwani; Air Cdre AY Lassa.*

*At the Nigeria Air Force (NAF), another \$2 billion and N29 billion fraud was allegedly discovered in contract award spending.*

*The alleged fraudulent contracts include how to contracts to the tune of \$930,500,690.00 were awarded, payment of 4,402,687,569.41 for unexecuted contracts, procurement of two used Mi24V helicopters instead of the recommended Mi-35M series at \$136,944,00.00, four used Alpha-Jets for the NAF at US\$7,180,000.00 funded by ONSA, cannibalization of engine from NAF fleet to justify procurement of jets, excessive pricing of 36D6 Low Level Air Defence Radar at \$33 million instead of \$6 million per one and delivery of radars without vital component of Identification Friend or Foe (IFF) that distinguishes between own and adversary air-craft. Other areas being investigated by the EFC are the transfer of \$2 million to Mono Marine Corporation Nigeria Limited owned by some Air Force Officers, N15 billion allegedly lavished on the maintenance of its Alpha-Jets, C-130 Aircraft and Mi-24V/35P helicopters, N2.5 billion contracts awarded to Sirius Technologies, a Ukrainian company not registered in Nigeria, award of seven contracts worth N599, 118,000.00 contracts to Defence Industry Corporation of Nigeria (DICON) but two delivered. Many of those arrested and being are still in detention; some for more than three weeks.*

*Others arrested and quizzed got some share of the arms money from the office of the former NSA. They are mainly politicians and media personalities. They include former Minister of State for Finance, Bashir Yuguda, Former Governor of Sokoto State, Attahiru Bafarawa and his son, former Minister of Defence, Haliru Bello Muhammed and his son, spokesman of the Peoples' Democratic party (PDP), Olisa Metuh among others”.*

## **REACTIONS FROM NIGERIANS ON THE MODUS OPERANDI OF THE ON-GOING WAR AGAINST CORRUPTION IN NIGERIA**

There have been different reactions from different segments of the Nigerian society towards the on-going fight against corruption in Nigeria. While there appears to be a consensus of the need to fight corruption headlong, several persons still believe that the war is political and targeted at a given segment of the society i.e political office holders under the immediate past Federal Administration and members of the former ruling party, the PDP only. There are others who hold the opinion that the entire war is a propaganda, a media trial, a rudderless and unconstitutional/illegal witch hunt on Nigerians. According to Prof. Ben Nwabueze, a seasoned jurist and constitutional expert:

*“Constitutional democracy is not the same as democracy. Constitutional democracy is a democracy limited by the Constitution, constitutional limitation of powers. The war against corruption should be fought within the limitation of the Constitution. But that is not what is happening. The danger is, because of the public glamor of fighting corruption, the government can get away with anything. Government should not be allowed to get away with perversions in the name of fighting corruption”.*<sup>81</sup>

In the same vein “The Nigerian Bar Association (NBA) and several other prominent legal practitioners have reacted to a recent statement credited to President Muhammadu Buhari in which he was quoted as saying that the ‘judiciary is his headache’ in the fight against corruption. According to the President, the judiciary was not moving at the same direction or pace in which he would want to combat corruption, thereby frustrating his efforts. But the NBA, through its President, Austin Alegeh (SAN) has said that the statement of the President ‘is a misconception,’ not backed with the facts of judiciary’s numerous challenges. Other lawyers such as Wole Olanipekun (SAN), Olisa Agbakoba (SAN), Ebun-Olu Adegboruwa Chris Akiri and Joseph Otteh, among others have also responded in a similar vein or differently to Buhari’s posturing against the judiciary, in (the) various interviews conducted by The Guardian on the matter”<sup>82</sup>.

In a related but staggered opinion Paul Onomuakpokpo has opined that, “Aside from the much-spun warning against the danger of the President Muhammadu Buhari’s anti-corruption campaign being dampened by hostile forces seeking to trap it in a terminal crisis, the government itself is on the path of willfully preventing itself from attaining its deserved denouement-punishment for the culprits.

Yes, the citizen have not come to terms with the fact that Buhari has balked at the challenge of launching a holistic anti-corruption campaign. Stripped of all its altruistic pretensions, the campaign is directed at only the members of the opposition as though Buhari’s friends, associates and supporters were not in any way smeared with the grime of corruption. But if only for the sake of approving the inauguration of the dismantling of a behemoth obstacle to the nation’s development, the citizens would brook this brazen quest to deploy presidential fiat to protect cronies that have been submerged in the same miasma of corruption like other Nigerian who are being hunted by the Economic and Financial Crimes Commission (EFCC). Hopefully, there would be another time for a holistic battle against the monster of corruption.

But what may further discredit the current campaign against corruption is the plan to give a soft landing to those who return their loots to the coffers of the government. Prof. Itse Sagay, the chairman of the presidential anti-corruption advisory committee hinted of this likelihood in an interview with journalists recently. From a superficial perspective, such a position is validated by the notion that a judicial approach to the anti-corruption campaign costs so much- the legal system is slow, the case may drag on; the judges could be bribed; and the suspect may not return the money. It was this consciousness of this perceived or real danger posed to the anti-corruption fight that made Buhari to declare a lack of confidence in the legal system, a position that provoked the ire of the members of the learned profession.

Yet Buhari must find a cure to his headache of judicial connivance. In the first place, the Buhari government is faced with this quandary because the terms of the anti-corruption campaign are only known to him and his party’s members while to the public they are locked in the realm of speculation”<sup>83</sup>.

81. THE GUARDIAN [www.nrguardiannews.com](http://www.nrguardiannews.com) Tuesday, February 23, 2016 pp 44
82. THE GUARDIAN [www.nrguardiannews.com](http://www.nrguardiannews.com) Tuesday, February 9, 2016 pp 43
83. THE GUARDIAN [www.nrguardiannews.com](http://www.nrguardiannews.com) Thursday, February 18, 2016 pp 17

Perhaps the major aspect of President Buhari's anti-corruption crusade is the aspect that most persons accused of corruption who have been arrested have not breathed the air of freedom even when granted bail by the courts. The cross-section of learned views around Nigeria is that remanding accused persons on charges yet to be proven is unconstitutional and a breach of their fundamental human rights.<sup>84</sup>

### **PRESIDENT BUHARI'S WAR AGAINST CORRUPTION VS PERSONAL RIGHTS AND LIBERTIES UNDER THE NIGERIAN CONSTITUTION, 1999, AS AMENDED**

Under this heading we shall examine the ongoing war against corruption in Nigeria vis-à-vis the provisions of the 1999 constitution of the Federal Republic of Nigeria, apt provisions of the Criminal Justice Act, 2015, other existing domestic laws and international law as relating to the rights to personal liberties and other aspects of fundamental human rights.

It is submitted that given the express provision of Section 36(4) of the Constitution of the Federal Republic of Nigeria, 1999 as amended, a criminally accused person is entitled to a fair trial before a proper court with relevant competence and jurisdiction to try the alleged offence and offender. It states that

*"Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal...."*

In the context of the cited provision of section 36(4) of the 1999 Constitution of the Federal Republic of Nigeria: a 'court or tribunal' means a court of law or tribunal with jurisdiction to try crimes ("only a court in the strict constitutional sense" of section 6 of the Constitution.)<sup>85</sup>. It must be a court that forms part of the established and regular courts invested by the Constitution with the judicial power of the Federation or a State. This is because conviction for a criminal offence and the imposition of sentence therefor pertain exclusively to judicial power, so that only a court qualified under section 6 of the Constitution to exercise judicial power can convict and sentence for a criminal offence. A tribunal which is not a court in

the sense of section 6 of the Constitution cannot competently convict and sentence for a criminal offence, no matter how independent and impartial it may be.

We shall now consider other provisions of the constitution of the Federal Republic of Nigeria, 1999 as amended, as relating to the right of personal liberty

84. THE GUARDIAN [www.nrguardianews.com](http://www.nrguardianews.com) Tuesday, January 26, 2016 pp 43

85. Nwabueze, the Presidential Constitution of Nigeria, London, Hurst/Nwamife, 1982 page 431

## **RIGHT TO PERSONAL LIBERTY**

### **CONSTITUTIONAL OBLIGATIONS**

“Section 35 (1) of the said Constitution, further provides as follows: *Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law*

- a. *In execution of the sentence or order of a court or in respect of a criminal offence of which he has been found guilty;*
- b. *By reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law;*
- c. *For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonable necessary to prevent his committing a criminal offence;*
- d. *In the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;*
- e. *In the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol vagrants, for the purpose of their care or treatment or the protection of the community; or*
- f. *For the purpose of preventing the unlawful entry of any person into Nigerian or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto;*
- g. *Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.*

Under sub section (2) and (3) any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice.

(3) Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in language that he understands) of the fact and grounds for his arrest or detention.

Sub section (4) also provides any person who is arrested or detained in accordance with subsection (1) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of-

- a. Two months from the date of his arrest or detention in the case of a person who is custody or is not entitled to bail; or
- b. Three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appear for trial at a later date.

(5) In subsection (4) of this section, the expression “a reasonable time” means-

- a. In the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometers, a period of one day; and
- b. In any other case, a period of two days or such longer period as in the circumstance may be considered by the court to be reasonable.

It is important to note that sub sections (6) and (7) also provides as follows: Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person =; and in this subsection, “the appropriate authority or person” means an authority or person specified by law while under sub section (7), it is further provided that: Nothing in this section be construed-

- a. In relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence; and
- b. As invalidating any law by reason only that it authorities the detention for a period not exceeding three months of a member of the armed forces of the federation or a member of the Nigeria Police Force in execution of a sentence imposed by an officer of the armed forces of the Federation or of



the Nigeria police force, in respect of an offence punishable by such detention of which he has been found guilty.”

It is noteworthy to state that there are now far reaching provisions under the recently passed **ADMINISTRATION OF JUSTICE ACT, 2015** which appear not to have been applied in the ongoing corruption cases in Nigeria, there are very important provisions that have not been given voice in our courts of law. References are made here to some of the important provision under the said Act in addition to other international conventions and treaties into which Nigeria is a signatory. The provisions include:

32(1) OF THE ADMINISTRATION OF JUSTICE, ACT 2015 provides that:

1. Where a suspect taken into custody, in respect of a non-capital offence is not released on bail after **24 hours**, a court having jurisdiction with respect to the offence may be notified by application on behalf of the suspect.
2. The court shall order the production of the suspect detained and inquire into the circumstance constituting the grounds of the detention and where he seems fit, admit the suspect detained to bail.
3. An application for bail under this section may be made **orally** or in **writing**

Interpreting a similar provision under section 24(3) of the Criminal Procedure Code, it has been held in the case of MUSA V. COP (2004) 9 NWLR (Pt.879) 483 RATIO 1 that: “bail may be considered whether orally or by motion even if the applicant has not been formally charged to court”.

Section 158 of the said ADMINISTRATION OF JUSTICE provides further that: “when a person who is suspected to have committed an offence or is accused of an offence and is arrested or detained, or appears or is brought before a court, he shall subject to the provision of the part, **be entitled to bail**.”

**Section 162 of the same Act also provides that:** “A defendant charged with an offence punishable with imprisonment for a term exceeding 3 years **shall, on application to the court, be released on bail** except in any of the following circumstance:”

- a. Where there is reasonable ground to believe that the defendant will, where released on bail, commit another offence.
- b. Attempt to evade his trial,
- c. Attempt to influence, interfere with, intimidate witnesses and or interfere in the investigation of the offence, or
- d. Attempt to conceal or destroy evidence
- e. Prejudice the proper investigation of the offence
- f. Undermine or jeopardize the objective or purpose or functioning of the criminal justice administration including the bail system.

Section 163 of the said Act further provides that: “in any other circumstance other than those referred to under section 161 and 162 of this Act, the defendant shall be entitled to bail, unless the court sees reasons to the contrary.

A further provision is also found under section 164 of the said Act which provides that: “Where a defendant is brought before a court in any process in respect of any matter not included within section 158 to 165 of this Act, the person may on the discretion of the court, be released on his entering into recognizance, in the manner provided in the Act for his appearance before the court, or any other court at the time and place mentioned in the recognizance while section 165 (1) provides that: “the condition of bail in any case shall be at the discretion of the court with due regard to the shall not be excessive.” Further support is also found under section 167 (1), (2), (3) to the effect that: “a defendant admitted to bail may be required to provide such surety or sureties, as in the opinion of the court, will be sufficient to ensure his appearance and when required and that a person shall not be denied, prevented or restricted from entering or standing as surety for any defendant or applicant on the ground that the person is a woman and section 168 (1) of the said Act which also provides that: “a judge of a High Court may direct that the defendant in custody in a state or in the Federal Capital (FCT) territory Abuja be admitted to bail.

Other domestic legislation applicable in Nigeria include:

- Fundamental Human Right (Enforcement Procedure) Rules, 1999
- Common Law prerogative writs
- High Court Civil Procedure Rules
- National Human Rights Commission Act, 1996
- Legal Act Council Act, 1977, (as amended in 1986)
- Public Complaints Commission Act, 1975
- Mediation laws of some States
- Child Rights Act/Laws
- Nigerian Law Reform Commission Act, 1979
- Arbitration and Conciliation Act, 1988
- African Charter on Human and People’ Right (Ratification and Enforcement) Act, 1983
- Various States laws on Kidnapping (Rivers State 2009; Imo State 2009)
- Report of Presidential Committee on Prison Reforms and Rehabilitation
- Prison Watch Project established by the Human Rights Unit of the Lagos State Ministry of Justice
- Prison Decongestion Programme of the HA-GF
- Infrastructural and capacity improvements in Prison service

- Establishment of the Office of the Public Defender in many States Ministries of Justice
- Establishment of Mediation Centres in Some States,
- Report of the Criminal Justice Commission, and Establishment of Criminal Justice Committees
- Establishment of Committees on the Prerogative of Mercy at both the Federal and State levels
- Establishment of Fund for Procurement of Police Equipment
- Establishment of the National Human Right Commission
- Establishment of Citizens Rights Directorate in many States
- Stakeholders consultative meetings on Justice Sector Issues in some states

Infrastructural and welfare improvement in the prison

Apart from the above provisions found in the constitution of the Federal Republic of Nigeria, 1999, as amended and other domestic legal and paralegal obligations, there are a myriad of international obligations to which Nigeria has ratified. They include the following:

### **INTERNATIONAL OBLIGATIONS**

Nigeria's International Obligations towards upholding Human Rights are govern by the following conventions and treaties, amongst others:

- Articles 9 and 11 of the Universal Declaration of Human Rights
- Article 9,10, 14 and 15 of the International Covenant on Civil and Political Rights.
- Articles 6 and 7 of The African Charter on Human and Peoples' Rights
- The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Article 37, 39 and 40 of The United Nations Convention on the Rights of the Child
- Article 17 of the African Union Charter on the Rights and Welfare of the Child.
- The United Nations Standard Minimum Rules for the Administration of Juveniles Justice (the Beijing Rules)
- The United Nations Rules for Juveniles Deprived of their Liberty (the Tokyo Rules)
- United Nations Standard Minimum Rules for the Treatment of Persons in Detention
- United Nations Voluntary Fund for Victims of Torture
- All other relevant International and regional Instrument relating to this right., as well as all other relevant United Nation Standards and Norms in

Criminal Justice Administration.

### **1.5. Conclusion**

It is submitted that while corruption stalls development and must be fought to a standstill to bring about sustainable development, the present administration of President Muhammadu Buhari is obligated in its efforts as dealing with corruption in Nigeria to comply with provisions of the Constitution of the Federal Republic of Nigeria, all existing domestic Legislations dealing with the procedure as relating to the arraignment of persons for criminal offences, including the recently passed Administration Of Criminal Justice Act, 2015 and all international convention and treaties highlighted in this paper. This is the right way to go if Nigeria must succeed in its war against corruption and at the same time treat its citizens with the required decorum stipulated by existing domestic and international law.

One cannot help but agreeing with the recent resolution of the Body of Senior Advocates of Nigeria (BOSAN) issued recently, after its meeting jointly signed by Mr. Ebus Sofunde (SAN) and Mr. Seyi Sowemimo (SAN), to the effect that whereas “the Body condemns all forms of corruption and money laundering by anyone, lawyers inclusive.... (and) wholeheartedly support appropriate efforts of the government aimed at curbing the menace of corruption through thorough investigation and prosecution of offenders in a fair trial that complies with due process of the law and ensures equal access to justice by the persecutor and the accused (and) guaranteeing the fundamental rights of all persons as enshrined in the Constitution of the Federal republic of Nigeria 1999 (as amended)”,.... Its further assertion that Investigations must ensure... that rights of suspects are guaranteed must also be supported.

This author further agree entirely with the further resolution of BOSAN which also condemned “*all acts of disrespect by any person or agency of government, of valid orders of courts of competent jurisdiction with the warning that disrespect or disregard of court order “is a step towards anarchy, which does not and cannot augur well for a democratic society such as Nigeria.”*”

It is heartwarming that BOSAN also expressed concern on the “spate of disparaging remarks and attacks on the judiciary and judicial officers, often made in a generalized manner and perhaps calculated to intimidate and infuse fear in judges, who are sworn to dispense justice without fear or favour” and its further view that: that it was unfair to the many honest and hardworking judges in our country to be painted with the same brush as the few who have been found wanting for misconduct or those who bring the office into disrepute and violate their sacred oaths of office” and its warning on lawyers to “desist from joining the bandwagon of issuing “generalized statements of a disparaging nature” against judges, describing such conducts as “unprofessional”. BOSAN’s further principled reiteration that any “belief that the harassment and intimidation of lawyers in any form in the course of their legitimate work is unlawful and counter-productive in a democratic society and that such actions, are not only unlawful but antithetical to the rule

of law. It is also appropriate BOSAN's education of the public that: "Nothing is further from the truth that once a lawyer undertakes the defence of an accused person, particularly a professional colleague, then he must be in active support of the alleged crime or be working against the anti-corruption crusade. The Nigerian Constitution, for good reason, presumes a person innocent until proven guilty before a court of competent jurisdiction following a fair hearing, with an opportunity to conduct his defence by a counsel of his choice."

It is only necessary for lawyers to take seriously the admonition of BOSAN, in their said meeting to "continue to represent their clients to the best of their abilities, within the ambit of the law, and with compliance with the Rules of Professional Conduct for Legal Practitioners 2007" despite the misgivings expressed by the present administration of President Muhammadu Buhari<sup>86</sup>.

86. THE GUARDIAN VOL.32, No. 14,604 Monday, March 28, 2016, Pp 1 and 6

## References

- The Storey Report. The Commission of Inquiry into the administration of Lagos Town Council
- Africa, London, April 1979, p 25
- "Nigeria Corruption Profile". *Business Anti-Corruption Portal*. Retrieved 2 July 2015.
- "Nigeria has lost \$400bn oil revenue to corruption since Independence – Ezekwesili". *Daily Post Nigeria*. Retrieved 2 July 2016.
- Wraith, R, and E Simpkins, *Corruption in Developing Countries. Tribalism might as well remain the greatest obstacle to tackling official corruption in Nigeria*. Journal of Modern African Affairs, 1983
- Varda Eccker, On the Origins of Corruption: Irregular Incentives in Nigeria. The Journal of Modern African Studies. Vol. 19, No. 1 Mar., 1981.
- "South Elevation: Breaking Views: Nigeria: Corruption Perception Index". Retrieved 2 July 2016.
- "The \$20-billion hole in Africa's largest economy". Retrieved 2 July 2016 – via *The Economist*.
- Chinua Achebe. No Longer at ease New York, 1960
- Chinua Achebe, A Man of the People, New York, 1966
- Robert L. Tignor. Political Corruption in Nigeria before Independence, The Journal of Modern African Studies > Vol. 31, No. 2 (Jun., 1993)
- Turner. The Nigerian Cement Racket, Africa Guide, 1976 Pg 6

- Keith Panter Brick. Soldiers and Oil: The Political Transformation of Nigeria, ISBN 0 714630985 Pg70
- Olajide Aluko. Nigeria and Britain after Gowon, African Affairs. Vol. 76, No. 304 Jul., 1977
- [http://www.piie.com/publications/chapters\\_preview/12/8iie2334.pdf](http://www.piie.com/publications/chapters_preview/12/8iie2334.pdf)
- "Nigeria: The Gospel According to St. Obasanjo". Retrieved 2 July 2016.*
- "Nigerian Leader Promises Crackdown on Corruption". Retrieved 2 July 2016.*
- Leon Dash, Mysterious Fires Plague Nigerian Investigations, The Washington Post, February 27, 1983
- "British banks linked to import swindles", The Globe and Mail (Canada), December 3, 1985
- JUAN de ONIS, "RICE SHORTAGE IN NIGERIA BRINGS CHARGES OF CORRUPTION", The New York Times, January 18, 1981
- alexsamade (20 March 2011). "53 SUITCASES SAGA: Buhari blasts Atiku, Jonathan". Retrieved 2 July 2016.*
- "IBB: The "mess" iah see IBBs Lavish Mansion Pictures Hilltop". Retrieved 2 July 2016.*
- huhuonline.com. "IBB Shuns mourning of dead wife, Plans to Commission his Hotel in Abuja". Retrieved 2 July 2016.*
- "GLORIA OKON, The Story of Nigeria's Most Mysterious Drug Pusher". 6 August 2015. Retrieved 2 July 2016.*
- Jonah, Kindness Innocent. "OIL BLOC IN NIGERIA: OBASANJO, IBB, ATIKU ABUBAKAR, T.Y. DANJUMA, DAVID MARK, DANGOTE AND ADENUGA ARE SYNDICATES OF CORRUPTION.". Retrieved 2 July 2016.*
- <http://www.nigeriavillagesquare.com/articles/omoyele-sowore/mike-adenuga-arrested-detained-by-efcc.html>
- siteadmin (12 August 2006). "Mohammed Babangida detained, EFCC looks into Globacom and IBB's "front investments"". Retrieved 2 July 2016.*
- Hector Igbikiowubo, "TSKJ SAGA: SWISS GOVT FREEZES \$ 100M ACCOUNTS", Vanguard, Nigeria, December 6, 2004
- David Pallister, "Comment & Analysis: Pennies from heaven: Many of Nigeria's missing millions were laundered through greedy banks in London", The Guardian (London), September 7, 2000
- <http://www.thisdaylive.com/articles/leaked-files-link-abdulsalami-abubakar-chris-garba-to-182m-halliburton-bribery-scandal/201454/>
- <http://www.punchng.com/politics/offshore-bribery-convictions-and-nigerias-anti-graft-war/>
- "Things You Never Knew About Mike Adenuga, Nigeria's Second Richest Man - INFORMATION NIGERIA". Retrieved 2 July 2016.*
- "The third term bribery allegation - Vanguard News". 22 May 2011. Retrieved 2 July 2016.*

- "Yar'Adua knew Aondoakaa was corrupt but could not sack him - Wikileaks - Vanguard News". 8 September 2011. Retrieved 2 July 2016.
- "Google Groups". Retrieved 2 July 2016.
- Chima, Obinna (4 December 2014). "Nigeria Records Improvement, Ranked 39th on Corruption Index". This Day Live. Retrieved 8 February 2015.
- Tim Cocks and Joe Brock (6 February 2015). "Special Report: Anatomy of Nigeria's \$20 billion "leak"". Reuters. Retrieved 6 February 2015.
- "NNPC Audit: No Missing \$20 Billion". Nigerian Bulletin. Retrieved 8 February 2015.
- "This Yam, This Goat, This Country: PwC on NNPC – Part 1". 29 April 2015. Retrieved 2 July 2016.
- "Looking Beyond the Diezani Tenure - Africa Oil+Gas Report". Retrieved 12 August 2016.
- "Looking Beyond the Diezani Tenure - Africa Oil+Gas Report". Retrieved 2 July 2016.
- <http://www.punchng.com/news/cash-assistant-others-have-post-property-in-safrica-efcc/>
- valerie.devuyst. "Anti-Corruption in Nigeria". Retrieved 2 July 2016.
- <http://www.punchng.com/news/okonjo-iweala-spent-2-1bn-without-approval-says-fg/>
- "Adams Oshiomhole Accuses Okonjo-Iweala of Spending \$1 Billion of Nigeria's Money on Jonathan's Election Campaign - She Denies Allegations". Retrieved 2 July 2016.
- siteadmin (18 June 2015). "NNPC/NEITI And Missing \$11.6Bn NLNG Dividends: Another One For Buhari's In-tray By Ifeanyi Izeze". Retrieved 2 July 2016.
- <http://www.punchng.com/news/oil-worth-13-7bn-stolen-under-nnpc-says-neiti/>