



Reconstruction Of The Justice Delivery System In Corruption Cases In Nigeria: The Imperatives Of Establishment Of Specialized Anti-Corruption Courts, Challenges And Prospects

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ABSTRACT

Corruption, generally regarded as abuse of office, permeates all societies irrespective of indices of development. As a scourge that strikes at the root of socio-economic development of a nation, many jurisdictions have strengthened and deepened their legal framework and adopted robust reform in the justice sector geared towards enhancing the adjudicatory process. In this study, the focus is on Nigeria. The objective is to investigate the judicial sector performance in the adjudicatory process for corruption-related matters in the light of her poor ranking on the global Corruption Perception Index. Using analytical and comparative study, this study adopted a theoretical and doctrinal data and examined the existing institutionalized legal framework against corruption, investigated the judicial sector performances, discovered that there is lacuna in the establishment of specialized anti-corruption courts, and concluded that a judicial reform is imperative by the establishment of specialized anti-corruption courts and offered recommendations to secure their independence and impartiality.

Keywords: ‘corruption cases’, ‘anti-corruption courts’, ‘establishment’, ‘jurisdiction’.

1.1 INTRODUCTION

The issue of corruption is a socio-economic and political contraption that has gained currency and notoriety in Nigeria and other developing jurisdictions in sub-Sahara Africa with traces in even developed and advanced jurisdictions such as Europe and United States. It is a global phenomenon that no jurisdiction is immune to¹. Corruption is a hydra headed monster that its study is one of multi-disciplinary approach cutting across private and public sectors of the economy. However, in this study, the focus is on Nigeria and the definition or understanding of corruption is limited to economic dimension influenced by political cleavages or patronages for selfish enrichment within the perimeter of public sector and the private sector respectively. In other words, the wrong exercise of public power or office for private gains and its grave impact on the society. The aim of this study is to interrogate the current Nigeria justice delivery system in the crusade against corruption as provided by the legal framework in Nigeria and to proffer reforms through legislative action towards the establishment of specialized courts or tribunals to fast-track the administration and dispensation of corruption cases in Nigeria.

And because corruption is a virus that has permeated all global economies with divergent cultural and political systems, it rather becomes difficult to accord a straight-jacket definition of the term corruption². However, several attempts have been made to define corruption. Corruption has been defined as the use of public office for private gain, or in other words, use of official position, rank or

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¹ Dominik Enste and Christina Heldman, ‘Causes and Consequences of Corruption – An Overview of Empirical Results’ (2017) (2) *IW-Report Institut der deutschen Wirtschaft [IW]*, Koln 4.

status by an office bearer for his own benefit.³ This definition seemed narrow as it sees the perception of corruption from the view-point of public sector services.

It has equally been defined as the intentional non-compliance with the arm's-length principle aimed at deriving some advantage for oneself or for related individuals from this behaviour.⁴ This definition harped on the deliberate and mischievous attempt to break the rules or a conscious violation of rules of procedure or due process for selfish enrichment or for undue benefit of a third-party. Another scholar, Susan Rose-Ackerman defined corruption on reward system as '[p]ayments are corrupt if they are illegally made to public agents with the goal of obtaining a benefit or avoiding a cost'.⁵ This definition model seemed to x-ray the perception of corruption on the supply chain [giver] platform without taken into consideration that in most corruption cases, it is a two-way traffic collaboration between the demanding officer and the supply person. However, it is not in dispute that in some cases, only one party is involved in outright fraud or embezzlement of funds.

On its part, the World Bank defined corruption as the '[u]se of public office for private gain'⁶ and called for the Bank to address corruption along four dimensions namely, (1) preventing fraud and corruption in Bank projects, (2) helping countries that request Bank assistance for corruption, (3) mainstreaming a concern for corruption in Bank's work, and (4) lending active support to international efforts to address corruption.⁷

The International Monetary Fund [IMF] and the Transparency International [TI] respectively adopted the World Bank definition model of public sector definition of corruption,⁸ and have extended the meaning of corruption to include where the corrupt act itself did not result in financial gain for the public official such as political interference through abuse of office by adopting non-legal or non-administrative extraneous factors or considerations in the administration of public duty to confer undue favour or advantage to another person.⁹ In other words, the unbridled exhibition of nepotism to confer political patronage on cronies or family members undeservedly by abuse of public trust.

The scourge of corruption and its crippling effect on global economies has received international attention and collaboration to combat it. One of the methods the international community has adopted to create awareness and ensure transparency in public and private sectors across jurisdictions in the globe is the establishment of Transparency International [TI] as a global watch-dog to access the level of transparency and deepening public trust as well as arouse the consciousness of the various jurisdictions to strengthen their institutional frameworks to fight corruption and grow their economies. The Nigeria's Corruption Perception Index [CPI] as recently released by the acclaimed global impartial Transparency International [TI] is very alarming and it has a damaging effect on both the economy and the international perception of Nigerian citizens. By the recent publication of Transparency International [TI] released in January 2021, Nigeria was recorded to have ranked 149 out of 183 countries on Corruption Perception Index [CPI] falling short of one point compared to the year 2020 as released by the Civil Society Legislative Centre [CISLAC], the Nigerian Chapter of Transparency International.¹⁰

² Ibid 5. See IMF: Corruption Costs and Mitigating Strategies, Fiscal Affairs and Legal Departments, May 2016, 3.

³ U Myint, 'Corruption: Causes, Consequences and Cures' (2000) (7) (2), *Asia-Pacific Development Journal* 35.

⁴ Boris Begovic, 'Corruption: Concepts, Types, Causes and Consequences' (2005) (26) *Centro Para La Apertura YEL DESARROLLO DE AMERICA LATINA* Year 111, 2.

⁵ Susan Rose-Ackerman, *Corruption and Government: Causes, Consequences and Reform* (Cambridge: Cambridge University Press, 1999) 9.

⁶ World Bank (September 1997).

⁷ Jeff Huther and Anwar Shah, 'Anti-Corruption Policies and Programs: A Framework for Evaluation' Policy Research Working Paper 2501, The World Bank Operations Evaluation and Regional Relations Division, December 2000, 1.

⁸ See IMF: Corruption Costs and Mitigating Strategies, (n 2) 3; 'Transparency International: What is Corruption?' in

<<https://www.transparency.org>> accessed 6 September 2021.

⁹ Ibid 4.

Although the global corruption index which commands a high level of international respect and acceptance by reason of its impartial and objective analysis did not show specific incidences of corruption, but used captured data from eight different sources that provided perceptions by business community and experts on the level of corruption in the public sector in Nigeria.¹¹

From the recent ranking of Nigeria on the global corruption index by the Transparency International [TI], there is a marginal one-step down from the previous 2020 year, this slight drop, though encouraging, is not significant as Nigeria has not reached the level it supposed to be on the integrity ladder when juxtaposed with the institutional legal framework in place to fight the scourge.

At the level of West African sub-region, Nigeria's corruption ranking index is worrisome. According to a recent report, Nigeria has dropped to 149 on the corruption index¹² with a score of 25 out of 100 points, to become the second most corrupt country in West Africa after Guinea Bissau that is placed on 165 points as the most corrupt country in West Africa.¹³ Several other jurisdictions¹⁴ were listed in the African region as endemically corrupt.

The international and regional ranking of Nigeria in the global corruption perception index should invite conversation on the incidences of corruption, the crippling effect on the economy, the current legislative framework to combat it and the reform of the justice sector through legislation to strengthen and deepen the war against corruption, the latter been the focus of this study. The conversation that would be encapsulated in this study is divided into 5 sub-titles of incidences of corruption in Nigeria, corruption and the legal framework in Nigeria, corruption and judicial reform, models for anti-corruption courts, findings and recommendations for Nigeria to key into judicial reform by the establishment of specialized anti-corruption courts for speedy, efficient and effective dispensation of justice in corruption-related matters.

1.2 Incidences of Corruption in Nigeria

Incidence of corruption varies from one jurisdiction to another with certain degrees such as rare, widespread or systemic. When it is rare, it becomes less difficult to detect, isolate and deal with it so as to prevent it from becoming endemic or widespread, but when corruption becomes systemic, it then becomes institutionalized as a way of life, and very difficult to tame with a devastating effect on the economy.¹⁵ However, whether the corruption index in Nigeria has reached the degree of 'widespread' or 'systemic' is not the conversation in this study. But what is clear is that with the abysmal rating of Nigeria in the Corruption Perception Index [CPI] and the general perception of corruption in Nigeria by her citizens and the international community, corruption could not be truly said to be rare in Nigeria.

The Transparency International [TI] agreed on the universality of corruption and its widespread in all sectors whether in business, government, the Courts, the media, civil society and all other sectors from health, education to infrastructure and sports.¹⁶ However, the present study is conceptualized within the framework of public and private sector corruption in Nigeria and the necessary judicial reform needed to fast-track judicial delivery system in corruption cases.

Some empirical studies have been conducted to underline the incidences of public sector corruption in Nigeria and the attendant consequences on the economy. For instance, a recent research conducted by the Council on Foreign Relations [CFR], an independent think-tank organization; the Civil Society Legislative Centre [CISLAC] been Nigerian chapter of Transparency International [TI] as well as the first and second national corruption surveys conducted by the United Nations Office on Drugs and

¹⁰ Gabriel Ewepu, 'Nigeria drops in Transparency International Corruption Perceptions Index, ranks 149 out of 183

Countries' (28 January 2021) in <www.vanguardngr.com> accessed 6 September 2021.

¹¹ Ibid.

¹² Transparency International: 2020 Corruption Index.

¹³ Emmanuel Okogba, 'Nigeria now second most corrupt West African country on corruption Index' (28 January 2021) in <www.vanguardngr.com> accessed 6 September 2021.

¹⁴ Burundi, Chad, Congo, Democratic Republic of Congo, Equatorial Guinea, Eritrea, Guinea Bissau, Libya, Somalia, South Sudan and Zimbabwe respectively.

¹⁵ See U Myint (n 3) 41.

¹⁶ See Transparency International (n 8).

Crime [UNODC] in partnership with the Nigerian National Bureau of Statistics [NBS] released in 2017 and 2019 respectively have highlighted various incidences of corruption in Nigeria ranging from lack of transparency in public contract procurement, official bribery, corruption and extortions by Government officials and security agencies especially the Nigerian Police, absence of transparency in the management of COVID-19 palliatives, nepotism in public service employment and promotions to lack of checks and mismanagement of security votes by political leaders.¹⁷

Another report¹⁸ from a study conducted by the Independent Corrupt Practices Commission [ICPC] established by statutory instrument¹⁹ to fight corruption in the public sector and bring the perpetrators to justice was limited specifically in coverage to the three public sectors of governance namely, Executive, Legislature and the Judiciary respectively exposed monumental corruption in the three limited areas of study. The said Report conducted a sampling survey of 399 Ministries, Departments and Parastatals [MDAs] and traced corruption in the Executive sector as some of the respondents in the MDAs admitted receipt of gratification to the tune of #3 million as a gift for contract related work and nepotism in the recruitment of personnel through political linkage.

It also underlined and summarized corruption level in the Legislature with particular reference to its oversight functions in the areas of provision of hotel accommodation, cash payments, provision of recruitment slots, creation of job vacancies, entertainments and gifts.²⁰ In the Judicial sector, the said Report stated that an estimated sum of #9.4 billion was exchanged in a bribe-for-judgment scheme between 2018 and 2020 in the judicial sector in Nigeria, and accused Lawyers as mostly responsible for offering bribes for favourable court judgments especially in electoral and political matters.²¹ These two studies under reference seemed to be restrictive in scope to public sector services. That in itself did not exclude the private sector as immune to corruption especially in the banking and financial institutions that had witnessed collapse of many banks and financial institutions and the un-ending fraudulent Ponzi schemes with fraudulent investment portfolios that has swindled the citizens billions of naira.

Indeed, virtually in all public service sectors of the Nigerian economy including the political space, corruption is oozing out like a stench from the morgue, and there is hardly any demand for public services in Nigeria that is not accentuated with extortion or demand for gratification by those in charge of rendering such services and also from the citizens who want to circumvent the system for selfish gains.

Most political office holders engage in money laundering and contract scam through pseudo companies used to siphon public treasury running cumulatively to billions of naira. The Nigerian electoral sector is riddled with monumental corruption as most election managers are susceptible to corrupt influences of some politicians in the manipulation of the election results to thwart the political will of the people as expressed in the ballot box and thereby endangering democracy. Several electoral officers in Nigeria have been tried and convicted²² for bribery and election rigging as evidence of electoral sector corruption.

Lending its voice on incidences of corruption, the Transparency International [TI] submitted that corruption could take several shapes or forms ranging from demand of money or favours by public servants in exchange for services, the political office holders misusing public money or awarding public jobs and contracts to friends or families to the corporate bodies bribing government officials to corner lucrative deals.²³

¹⁷ See Gabriel Ewepu (n 10).

¹⁸ 'Nigeria Corruption Index: Report of a Pilot Survey' the ICPC Report, 2020.

¹⁹ Corrupt Practices and Other Related Offences Act 2000, s 3(1).

²⁰ See ICCP Report 2020 (n 16).

²¹ Ibid. See also Kunle Sanni, 'At least #9.4bn paid as bribe for justice in Nigeria in two years – ICPC Report' in <<https://www.premiumtimesng.com>> accessed 6 September 2021.

²² '#362m Bribe: Appeal Court Affirms Seven Years' Jail term for INEC Officer – EFFC' *Premium Times* (30 June 2021) in <<https://www.premiumtimesng.com>> accessed 6 September 2021. See also 'Court Sentences Lecturer to 36 Months Imprisonment for Election Fraud' *Vanguard* (25 March 2021) in <www.vanguardngr.com> Accessed 6 September 2021.

The consequences of corruption in Nigeria jurisdiction is monumental and it has a devastating and spiraling negative effect on the economy ranging from poor infrastructure network, general underdevelopment, inequality in income distribution, abject poverty, high rate of crime and criminality, low investment portfolio, budgeting deficits, injustice, breeding of apathy and absence of patriotism in the citizenry, hyper-inflation, economic recession, fall in government revenue generation to the non-transparency in electoral process that would endanger democracy, and a gradual and steady decline to a state of anomie and despair as witnessed in the recent #ENDSARS# unrest in Nigeria in 2020 against Police brutality, bribery and extortions and the current banditry, terrorism and separatist agitations by non-State actors that have over-stretched the security apparatuses with loss of several lives and billions of property.

On its part, the Transparency International [TI] has asserted vigorously that corruption erodes trust, weakens democracy, hampers economic development and further exacerbates inequality, poverty, social division and environmental crisis.²⁴ Thus, the destructive nature of corruption in a nation's economy and the perception of nationals of such society in the international community call for concerted efforts by all stakeholders to detect, isolate and deal with the scourge through legally permissible ways. It is against this background that this study interrogates the measures Nigerian jurisdiction has adopted in the judicial sector to deal with the corruption vice and sanction perpetrators.

1.3 Corruption and the Legal Framework in Nigeria

The Nigerian jurisdiction is hostile to corruption both in the private and public sector services. The regime of legal framework in Nigeria prohibited corruption and criminalized it both in the public and private service sectors. The earliest legal regime in Nigeria zeroed anti-corruption proscription to the public service sector with penal sanctions.²⁵ With advancement in technology in perpetuating corruption-related crimes and criminality such as cybercrime, economic and financial crimes, money laundering, Internet fraud, et cetera and coupled with the undisputable fact that corruption could be located in the private sector service as well as in the public sector service, there was then the need to expand the jurisprudence of anti-corruption battle by the Legislature to deal with the emerging trends in corruption cases with the enactment of several pieces of legislations²⁶ that targeted both the public and private sector services.

However, despite these and other legislations to combat corruption and tame the scourge, there still remained a disappointing surge in corruption-related cases in Nigeria to the end that the existing adjudicatory process put in place seemed overwhelmed and over-stressed to the level of judicial exhaustion. Several corruption-related matters stay for years in courts without resolutions due to several factors some of which included over-burdening the courts with additional jurisdictions, inadequate number of judges, courtrooms or halls, analogue system of recording of proceedings, poor infrastructure, cumbersome rules of procedure which slowed down speedy trial of cases, undue regard to technicalities and poor welfare packages for the judicial personnel which affects motivation to work. Indeed, only few out of the litany of corruption cases have been resolved by the Courts.

²³ See Transparency International (n 8).

²⁴ Ibid.

²⁵ Criminal Code Act 2004, ss 98 – 104, and ss 114-116. See also the Penal Code act, 2004, ss 115-122

²⁶ Economic and Financial Crimes Commission Act No 5, 2002; Money Laundering Act No 3, 1995; Advance Fee Fraud and Other Related Offences Act No 1, 1995; Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994; Banks and Other Financial Institutions Act No 2, 1991; Code of Conduct Bureau and Tribunal Act C15, 2004; Public Procurement Act No 14, 2007; Corrupt Practices and Other Related Offences Act, (n 19), and several others.

In a passionate and desperate bid to decongest and fast-track backlog of corruption-related cases in Nigeria, the then Chief Justice of Nigeria [CJN] and Chairman of the National Judicial Council [NJC], Walter Onnoghen at a Special Session of the Supreme Court that ushered in the 2017/2018 Legal Year decried the accumulated number of corruption-related cases pending in all the superior courts of record and directed all the Heads of Courts [Chief Judges] in all the States' High Courts of the country including the Federal Capital Territory, Abuja as well as the Chief Judge of the Federal High Court respectively to designate 'special courts' solely for the purpose of hearing and speedy determination of corruption, economic and financial crime cases, and followed it up with the establishment of a monitoring body called the Corruption and Financial Crime Cases Trials Monitoring Committee [COTRIMCO] under the chairmanship of Suleiman Galadima, a retired Justice of the Supreme Court [JSC] which was inaugurated in November 2017 to ensure compliance and gave a frightening statistics that in November 2017, that a total number of 1,124 corruption cases were transmitted to the National Judicial Council for speedy trial in the designated special courts.²⁷

The statistical performance report of the designated 'special courts' within the period as revealed in 2018 by the Corruption and Financial Crimes Trials Monitoring Committee [COTRIMCO] showed an abysmal performance in justice delivery as out of a total of 1,124 corruption cases, only 324 judgments²⁸ were delivered across the 3 Zones²⁹ in the country at both the Court of Appeal, Federal High Courts, State High Courts and the High Court of the Federal Capital Territory, Abuja respectively. Although at the time of that report by CONTRIMCO, few cases were reserved for judgment and few struck out, it still remained a glaring demonstration that the adjudicatory process in corruption cases in Nigeria is rather slow and uninspiring to discerning minds, and that could weaken the fight to combat corruption.

Holistically, out of the identifiable causes of slow adjudicatory process in corruption trials and justice delivery system in Nigeria, the most crucial and germane factor remained the jurisdictional factor which is the focus of this study. Presently, virtually all the extant legal regimes against corruption in Nigeria, save the Code of Conduct and Tribunal Act³⁰ which created a special court³¹ for the sole purpose of dealing with assets declaration issues in relation to public officers and civil servants, the rest of the anti-corruption laws vested jurisdiction on either the Federal High Court or both the Federal High Court and the States' High Courts concurrently as courts of first instance with an appeal to lie with the Court of Appeal and finally to the Supreme Court in accordance with the Constitution.³² For the purposes of illustration, few of the anti-corruption, economic and financial laws would be isolated for discussion. The Economic and Financial Crimes Commission [EFCC]³³ conferred concurrent jurisdiction on both the Federal High Court and the High Court of a State to hear and determine all issues that arose from alleged violations of its provisions³⁴. It also vested prosecutorial powers on the itself through its Legal and Prosecution Unit³⁵ without prejudice to the general prosecutorial powers of the Attorney General of the Federation under the Constitution.³⁶

²⁷ Ibrahim Muhammed Sani Hadejia, "Special Courts and their Place in the Constitution" in <<https://dailytrust.com>>

Accessed 3rd September 2021. See 'Special anti-corruption courts deliver judgment in 324 cases' (1st July 2018)

in <<https://www.premiumtimesng.com>> accessed on 6th September 2021.

²⁸ 'Special anti-corruption courts deliver judgment in 324 cases' (1st July 2018) in <<https://www.premiumtimesng.com>> accessed on 6th September 2021.

²⁹ Zone A comprised of Abuja and the Federal Capital Territory; Zone B comprised of Northern States and Zone C Comprised of Southern States respectively.

³⁰ Cap C15, 2004.

³¹ The Code of Conduct Tribunal established under s 20 of the Code of Conduct and Tribunal Act, C15, 2004.

³² Constitution of the Federal Republic of Nigeria 1999 (as altered), 1999, ss 233(1) and ss 240 – 246.

³³ No 5, 2002 (n 26).

³⁴ Ibid, ss 18(1) and 40.

³⁵ Ibid s 12(2).

³⁶ See Constitution (n 32) s 174.

On the other hand, the Independent Corrupt Practices and Other Related Offences Act³⁷ conferred jurisdiction to hear and determine all alleged violations of the offences thereby created on a 'superior court of record' so designated by the Chief Judge of a State or the Chief Judge of the Federal Capital Territory, Abuja³⁸ as vested in the Heads of such courts.³⁹ It further vested prosecutorial powers on the Attorney General of the Federation or any person or authority under his delegated authority.⁴⁰

Under the Public Procurement Act⁴¹, jurisdiction to hear and determine alleged breaches of the offences thereby created was vested in the Federal High Court⁴² and conferred on the Attorney General of the Federation or a law officer or Attorney General of a State private legal practitioner so authorized by him⁴³ prosecutorial powers over all alleged breaches of the offences thereby created. Again, the Money Laundering Act⁴⁴ conferred exclusive jurisdiction to hear and determine the alleged violations of the offences thereby created on the Federal High Court.⁴⁵ Although the Act did not specifically vest prosecutorial powers on any person or authority, it is deemed to be vested in the Attorney General of the Federation who is the Chief Law Officer of the Federation⁴⁶ since the offences created under the Act were federal offences.

It is worthy of note that these two superior courts of record namely, the Federal High Courts and the High Court of States including the Federal Capital Territory, Abuja respectively were saddled with civil and criminal jurisdictions on several matters by the Constitution as courts of first instance with the High Court of a State saddled with additional appellate jurisdiction as we shall proceed to demonstrate.

With respect to the Federal High Court, it is vested with a wide range of jurisdiction by the Constitution on such matters relating to the revenue of the Federal Government in which the Federal Government or any organ thereof or a person suing or being sued on behalf of the Federal Government is a party⁴⁷; matters connected with or pertaining to taxation of companies and other established business entities and person subject to Federal taxation⁴⁸; or connected or pertaining to customs and excise duties and export duties, including any claim by or against the Nigeria Customs Service or any member or officer thereof, arising from the performance of any duty imposed under any regulation relating to customs and excise duties and export duties⁴⁹; or connected or pertaining to banking, banks and other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures⁵⁰; or arising from the operation of the Companies and Allied Matters Act or any other enactment or regulating the operation of companies incorporated under the Companies and Allied Matters Act⁵¹; or matters relating to copyright, patent, designs, trademarks and passing-off, industrial designs and merchandise marks, business names, commercial and industrial monopolies, combines and trusts, standards of goods and commodities and industrial standards⁵²; admiralty jurisdiction, including shipping and navigation on the River Niger or River Benue and their effluents and on such inland waterway so designated as international waterway, Federal ports and carriage

³⁷ The ICPC (n 19).

³⁸ Ibid s 26(2).

³⁹ Ibid s 61(3).

⁴⁰ Ibid s 26(2).

⁴¹ The PPA, 2007 (n 26)

⁴² Ibid s 58(2).

⁴³ Ibid s 58(3)(a)-(b).

⁴⁴ See Money Laundering Act (n 26)

⁴⁵ Ibid s 18(1).

⁴⁶ See (n 36).

⁴⁷ See Constitution (n 32) s 251(1)(a).

⁴⁸ Ibid s 251(1)(b).

⁴⁹ Ibid s 251(1)(c)

⁵⁰ Ibid s 251(1)(d).

⁵¹ Ibid s 251(1)(e).

⁵² Ibid s 251(1)(f).

by sea⁵³; diplomatic, consular and trade representation⁵⁴; citizenship, naturalization and aliens, deportation of persons, extradition, immigration issues, passport and visas⁵⁵; bankruptcy and insolvency⁵⁶; aviation and safety of aircraft⁵⁷; arms, ammunition and explosives⁵⁸; drugs and poisons⁵⁹; mine and minerals (including oil fields, oil mining, geological surveys and natural gas)⁶⁰; weights and measures⁶¹; the administration and control of the Federal Government or any of its agencies⁶²; treason, treasonable felony and allied offences⁶³, and such other matters as the National Assembly may, by law, confer on the Federal High Court.⁶⁴ Thus, the jurisdiction of the Federal High Court remained expansive at the pleasure of the Parliament.

In addition to these expansive jurisdictions conferred on the Federal High Court by the Constitution, the Federal High Court is also vested with concurrent jurisdiction⁶⁵ with the High Court of a State and the High Court of the Federal Capital Territory, Abuja respectively to hear and determine all issues connected with alleged violations or threat of violation of the fundamental rights and freedoms of the citizens as guaranteed under the Constitution⁶⁶ where the Federal Government or any of her agents or agencies is a party.

On the other hand, High Court of a State or the High Court of the Federal Capital Territory, Abuja has unlimited jurisdiction as court of first instance on civil or criminal matters that is connected with the existence of a legal right, power, duty, liability, privilege, interest, obligation or claim which is in issue or proceedings relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person⁶⁷. Unlike the Federal High Court, a High Court of a State or the Federal Capital Territory, Abuja is constitutionally clothed with both original and appellate jurisdiction over civil and criminal matters⁶⁸ in addition to the original jurisdiction to hear and determine all questions or issues connected with any breach or likelihood of breach of the fundamental rights and freedoms guaranteed by the Constitution⁶⁹ now shared with the Federal High Court.

Arguably, the superior courts of record with original jurisdiction and in respect of a High Court of a State with appellate jurisdiction on civil and criminal matters in addition to issues or matters connected with alleged breaches of fundamental rights enshrined in the Constitution are saturated, overwhelmed and over-stretched when it is considered that the High Court [whether Federal or State] are constituted by a single Judge⁷⁰ without legal assistants who depended largely on the outdated analogue system of recording proceedings by hand in the Court. To add to the jurisdictional burden already conferred by the Constitution with more jurisdiction on corruption, financial, economic and even terrorism matters vested by anti-corruption statutes would certainly impact negatively on speedy trial of corruption cases in Nigeria.

⁵³ Ibid s 251(1)(g).

⁵⁴ Ibid s 251(1)(h).

⁵⁵ Ibid s 235(1)(i).

⁵⁶ Ibid s 251(1)(j).

⁵⁷ Ibid s 251(1)(k).

⁵⁸ Ibid s 251(1)(l).

⁵⁹ Ibid s 251(1)(m).

⁶⁰ Ibid s 251(1)(n).

⁶¹ Ibid s 251(1)(o).

⁶² Ibid s 251(1)(p).

⁶³ Ibid s 251(2).

⁶⁴ Ibid s 251(1)(s).

⁶⁵ Fundamental Rights (Enforcement Procedure) Rules 2009, s 2.

⁶⁶ See Constitution (n 32) chap IV ss 33-45

⁶⁷ Ibid s 272(1)

⁶⁸ Ibid s 272(2).

⁶⁹ Ibid s 46(1) and (2). See also Fundamental Human Rights (Enforcement) Procedure Rules (n 65) s 2.

⁷⁰ See Constitution (n 32) ss 253 and 273.

Indeed, the commendable move by the then Chief Justice of Nigeria, Walter Onnoghen to Heads of superior courts to designate a ‘special courts’ for anti-corruption cases seemed to be an ad hoc and fire-brigade approach which could not achieve the desired result as those ‘special courts’ so designated combined the anti-corruption matters referred to them with the conventional matters in their general jurisdictions.

1.4 Corruption and Judicial Reform

Several jurisdictions in the international community have introduced far-reaching reforms in the justice sector to isolate corruption cases through the establishment of specialized courts to fast-track the administration of justice on corruption-related matters. Such institutionalized judicial reform with special rules of procedure and administrative structure could serve and achieve better result than the present arrangement in Nigeria.

In the Republic of Uganda, a specialized Anti-Corruption Court was established as a special division of the High Court vested with both unlimited jurisdiction and exclusive appellate jurisdiction over all offences created by the Anti-Corruption Act⁷¹ and matters related to corruption under other statutes. The Anti-Corruption Court was established by the Chief Justice in 2009 enabled by the Constitution.⁷² The judicial reform introduced by the Uganda jurisdiction unbundled jurisdiction on anti-corruption cases hitherto conferred on all courts by various statutes and vested such jurisdictions exclusively in the specialized Anti-Corruption Court.

The Philippines jurisdiction enacted a constitutional provision which provided for the establishment of a special court to deal with graft and other corruption vices. It provided thus: ‘The Parliament of the Philippines [Batasang Pambansa] shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offences committed by public officers and employees including those in government-owned or controlled corporations, in relation to their office as may be determined by law’.⁷³ The judicial reform introduced by the Philippines jurisdiction placed the *Sandiganbayan* [special court], which is court of first instance on corruption related matters, on the same judicial hierarchy with the Court of Appeal with appeal from its decision direct to the Supreme Court. The *Sandiganbayan* had a wide range of jurisdictions on corruption-related offences created by statutes.⁷⁴

The Slovakia jurisdiction established a Special Criminal Court [SCC] formerly called Special Court under its Criminal Code⁷⁵ with jurisdiction on all offences related to corruption and organized crime.⁷⁶ To ensure independence of the prosecution, a separate prosecutorial agency was created known as the Office of the Special Prosecutor [OSP] with exclusive right to refer cases to the Special Criminal Court. Like the Philippines jurisdiction, the Slovakia Special Criminal Court had original jurisdiction and appeals from its decisions lie directly to the Supreme Court. Several other jurisdictions⁷⁷ had also introduced institutionalized reform in their justice sector by the establishment of specialized courts to deepen and strengthen the fight to combat corruption and other related crimes.⁷⁸

⁷¹ Anti-Corruption Act 2009, Republic of Uganda.

⁷² Constitution of Uganda 1995, art 133(1)(b).

⁷³ Constitution of Philippines 1987, s 5 art 13.

⁷⁴ Such as the Anti-Graft and Corrupt Practices Act, Law RA 3019; Confiscation of Illegally Acquired Material Benefits Law RA 1379 and Revised Penal Code Title V11 Book 11 for offences thereby created.

⁷⁵ Criminal Code Law, 2005, Slovakia.

⁷⁶ Criminal Procedure Code, s 14.

⁷⁷ Afghanistan, Bangladesh, Botswana, Bulgaria, Burundi, Cameroun, Croatia, Indonesia, Kenya, Malaysia, Nepal,

Pakistan, Palestine, Mexico, Tanzania and Thailand respectively.

⁷⁸ Drozd Oleksii, Sabluk Serhil, Nykytiuk Yaroslav, Yarmaki Khrystufor and Mikhnevych Liudmyla, ‘Specialized Anti-Corruption Court: Foreign Experience in Establishment and Operation’ (2020) (23) (1) *Journal of Legal, Ethical And Regulatory Issues*.

1.5 Models for Anti-Corruption Courts

Jurisprudentially, there is no universal standard model for the establishment of a specialized court within the contextual framework of this study. Each jurisdiction has peculiar needs and would certainly adopt the most progressive model to meet with its peculiarities which included but not limited to its economy, social needs, personnel, infrastructure and the judicial system. However, there is rich scholarship on different models for the establishment of specialized anti-corruption. For the purposes of this study, only four models⁷⁹ would receive conversation.

1.5.1 The model of individual specialization of judges which posited that rather than the establishment of specialized courts, a technically trained and equipped individual judge on anti-corruption should be appointed in courts of general jurisdiction to deal with corruption-related matters as is the practice in Bangladesh and Kenya.

1.5.2 The model of an institutionalized special anti-corruption court so created as court of first instance with exclusive jurisdiction on all corruption-related offences created by statutes. Such a special court should be accorded an equal status with the Court of Appeal and appeals from its decision should lie with the Supreme Court as practiced in Croatia, Pakistan and Slovakia jurisdictions.

1.5.3 There is what is described as a ‘hybrid’ courts model which believed that an anti-corruption court would have a dual jurisdiction by having both original jurisdictions on corruption-related offences referred to it as well as an appellate jurisdiction to hear and determine appeals for other matters that emanated from courts of general jurisdiction. This model seemed to vest the Court of Appeal with dual jurisdiction as court of first instance for corruption matters as well as perform its appellate jurisdiction on conventional matters from the courts below as practiced in Philippines jurisdiction.

1.5.4 Another model of specialized anti-corruption courts existed where both the anti-corruption courts and the Court of Appeal have coordinate original jurisdiction on corruption-related matters as practiced in Indonesia, Malaysia and Bulgaria jurisdictions.

In Nigeria jurisdiction, there exist none of the four strict models of specialized anti-corruption court institutionalized. The present ad hoc arrangement of a designated ‘special court’ from the superior courts having general jurisdiction on conventional matters which also included, in most cases, corruption-related matters without adequate institutional framework for their establishment, lack of separate rules of procedure and absence of an independent prosecutorial agency, among others, robbed it of been a modern model of specialized court.

Notwithstanding the specialized anti-corruption model adopted by a particular jurisdiction, there certainly must be put in place an institutionalized and administrative framework to deepen and secure its independence, robust and strict rules of procedure peculiar to its needs, an independent prosecutor that is insulated from political influences, well trained judicial personnel and better welfare package for the personnel of the special court. This view was shared by a learned scholar, Martha Kashala who, writing from the background of Zambia anti-corruption court experiences declared that: ‘It is therefore, not enough that specialized anti-corruption courts are established, there establishment must be accompanied by institutional, administrative and financial mechanisms that shield them from political interference and allow the courts to operate independently if they are to meaningfully enhance the fight against corruption’.⁸⁰ Experiences had shown that politically-exposed persons tended to manipulate the justice system to their advantage or the advantage of their cronies to escape justice especially in the developing countries.

1.6 FINDINGS

Nigeria as a global partner in the fight against corruption should embrace the modern trend in the establishment of a specialized court for the purposes of dealing with corruption, graft, economic and

⁷⁹ A Slusar, ‘Anti-corruption Court in Ukraine: Prerequisites for the Formation and Guarantees of effectiveness’ in <<https://iti-ukraine.org/news>> accessed 3rd September 2021.

⁸⁰ Martha Kashala, ‘Specialized Anti-Corruption Courts: What Lessons for Zambia’ *The International Journal of Multi-Disciplinary Research* ISSN:3471-7102.

financial crimes and other related offences. The Nigeria poor ranking in the Corruption Perception Index [CPI] by the Transparency International [TI] both globally and in the Sub-region of Africa called for concerted efforts by all stakeholders to tame the corruption scourge. This study examined the present adjudicatory process for corruption-related trials in Nigeria and discovered that there exist no specialized anti-corruption court or tribunal with institutional and administrative structure with exclusive jurisdiction to hear and determine corruption, economic and financial crime cases.

An interrogation of the current ad hoc arrangement which designated some superior courts as ‘special courts’ to hear and determine corruption, economic and financial crime cases which combined these onerous responsibilities with their general jurisdiction fall short of a needed judicial reform for institutionalized anti-corruption court as there was nothing new in the whole arrangement. These ‘special courts’ still remained and retained their adjudicatory responsibilities on the constitutionally designated general jurisdictions and also the extended jurisdictions conferred by anti-corruption statutes.

1.6.1 RECOMMENDATIONS

In the light of the foregoing findings, this study proffers the following recommendations.

1. Granted that Nigeria jurisdiction had institutionalized legal framework put in place to combat corruption, though highly commendable, cannot be sufficient enough without a comprehensive reform of the justice sector in the dispensation of justice by unbundling of jurisdictions on corruption, economic and financial crime cases currently vested in the conventional courts and vest them in a separate and independent anti-corruption court by whatever name the Legislature may consider appropriate through legislative action.
2. In the proposed judicial reform, it is advocated that the second model of specialized courts in this study be adopted. That is, a separate and independent special anti-corruption court with exclusive and original jurisdiction to hear and determine all offences related to corruption especially high profile offences as listed in the statutes expressly stated and listed in the proposed legislative intervention. Thus, the proposed legislative amendment should expressly introduce the criminal statutes and the offences thereby created that would vest in the proposed special anti-corruption court to hear and determine.
3. To ensure quick and speedy dispensation of justice, the proposed legislative intervention in the justice sector should accord the special anti-corruption court a higher status in the judicial hierarchy with the same status of the Court of Appeal. This would obliterate the rigorous and painstaking process of long journey of appeals before finality in the Supreme Court.
4. Furthermore, to obliterate the technicality and unnecessary bureaucratic procedures that seemed to be associated with conventional matters, a separate strict rules of procedure for the special anti-corruption court should be put in place with strict timelines for the performance of any procedure and grave penalties for default including mandatory timeline for the commencement and disposal of cases not exceeding 6 months and unbridled request for postponement of trials by parties or their legal representatives. The measures, if adopted, would strengthen and deepen the fight against corruption and serve as deterrent measure as corruption cases should be situated in the class of election petitions in Nigeria.
5. Again, to ensure that the anti-corruption court operates optimally without political interferences, there should be established an independent Office of the Public Prosecutor appointed by the supervisory body who ought to be a non-partisan senior private legal practitioner appointed with prosecutorial powers to refer cases to the specialized court. The Attorney General of the Federation who is a political appointee of the President of the country ought not to interfere in the affairs of the prosecutorial agency if its independence and impartiality should be secured.
6. It is further recommended that a special coordinating, supervisory and monitoring independent body constituted by eminent retired jurists without blemish, representatives of the Nigeria Bar Association, clergy, representatives of the organized media and the Non-Governmental Organizations [NGOs] respectively be established with duties extended to the administration of the special anti-corruption court in relation to its welfare of personnel,

recruitment of administrative staff other than judges, recruitment of prosecutors in the Office of the Public Prosecutor and such other functions to enhance its independence.

7. To ensure that the functions of the specialized anti-corruption court is strengthened by decongestion of cases and speedy trial, it is advocated that it should be decentralized to the end that each judicial division in each State and the Federal Capital Territory, Abuja respectively shall have such number of courts as would be necessary and expedient as might be deemed necessary by the body charged with such authority.
8. Financial autonomy is highly imperative. Recent experiences in Nigeria with respect to the Executive grip and muscle-flexing on finances of the other branches of Government as demonstrated in the perennial battle for judicial and legislative financial autonomy with bouts of workers' strikes would certainly weaken the special anti-corruption courts if their funding is not secured. It is advocated that the funding of the specialized courts should be secured and made a first-line charge in the Consolidated Revenue Fund of the Federation and paid directly to the Judiciary in line with the constitutional provisions. It is commendable that the Federal Government has adopted this approach with respect to the federal courts created by the Constitution strengthened by the Presidential Executive Order.⁸¹

1.7 CONCLUSION

This study examined by comparative study the modern trends in the establishment of specialized anti-corruption courts and the institutional framework in several jurisdictions to strengthen and deepen the global fight against corruption, economic and financial crimes through both robust legislative and judicial reform. Although, several models for the establishment of specialized anti-corruption courts exist, there is no universal standard. Each jurisdiction adopts the method most suited to its individual peculiarities. Nigeria, as a global partner in the fight against corruption, with a poor ranking in the Corruption Perception Index of the Transparency International had a robust legal framework to combat corruption. However, there is urgent need for judicial reform to establish a specialized anti-corruption court to further institutionalize, deepen and strengthen the war against corruption through expeditious hearing and determination of corruption-related matters. This study made some proposals by way of a template to agitate legislative conversation in this area of justice sector reform.

⁸¹ Presidential Executive Order No. 00-10, 2020 issued on 5th June 2020 made pursuant to the Fourth Alteration Act No 7, 2017 to the Constitution (n 32).