

The Fight Against Corruption: A Call to Arms

When the issue of corruption is discussed Nigeria stands out as one of the most corrupt countries in the world. It is so ingrained in the fabric of our being that we have hit a brick wall and desperately need to be rescued as the country's economic progress is being stifled by the day. The Economist of June 20th - 26th has a special report on Nigeria titled 'Opportunity Knocks' with one article in particular dealing with corruption under the heading 'The only thing that works.' A truly sad tale. Our hope is that with President Muhammadu Buhari at the helm of affairs and with his commitment to tackle corruption headlong there appears to be light at the end of the tunnel; that finally something is about to be done to arrest this shameful phenomenon that has been a menace to the country.

It is important though to understand the history of Nigerian society and see how that has contributed to this thriving menace in order to understand a means of eradicating it and restoring trust and predictability in business and politics which will in turn attract economic progress.

Several unsuccessful attempts have been made to fight corruption in Nigeria. In 1956 following allegations of corruption, the Foster-Sutton Commission was set up to investigate the Affairs of the African Continental Bank Ltd (ACB). Also the Justice GBA Coker Commission was set up in 1962 to probe the management of certain statutory corporations in the Western region. It found cases of abuse of office, misappropriation and stealing of public funds and property. Additionally, the General Aguiyi Ironsi administration instituted a number of commissions of inquiry into the affairs of the former civil administration. Similarly, General Yakubu Gowon on assuming power in July 1966 and acting upon the commissions of inquiry reports of misuse of power, favouritism, embezzlement of funds and inflation of contract prices etc instituted the Public Officers (Investigation of Assets) Decree No 5 of 1966, identifying and seizing corruptly acquired assets of political office holders. General Murtala Muhammed's government enacted the Corrupt Practices Decree of 1975 and consequently all governors in the overthrown government were investigated and all except two were found guilty of corruption and their properties were seized. Shehu Shagari introduced his 'Ethical Revolution while General Buhari introduced his own War Against Indiscipline (WAI) which led to many party leaders, ministers, state governors and commissioners of the previous administration being arrested and prosecuted by Special Military Tribunals on Recovery of Public Property.

Despite these commendable efforts in the fight against corruption not much progress was made with regards to a legal framework. This was cured by the establishment of key anti-corruption agencies namely: The Independent Corrupt Practices Commission (ICPC) established by the Corrupt Practices Act 2000 and the Economic and Financial Crimes Commission (EFCC) established under the Economic and Financial Crimes Commission (EFCC) Establishment Act 2004 during Obasanjo's tenure as president.

Section 6 of the EFCC Act states the functions of the Commission which include: the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.; the co-ordination and enforcement of all economic and financial crimes laws and

enforcement functions conferred on any other person or authority; the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds amongst others.

Under Section 6 (a-f) of the ICPC Act 2000, the main function of the Commission is to receive complaints, investigate and prosecute offenders; to examine the practices, systems and procedures of public bodies and where such systems aid corruption, to direct and supervise their review; to instruct, advise and assist any officer, agency, or parastatal on ways by which fraud or corruption may be eliminated or minimised by them; to advise heads of public bodies of any changes in practice, systems or procedures compatible with the effective discharge of the duties of public bodies to reduce the likelihood or incidence of bribery, corruption and related offences; to educate the public on and against bribery, corruption and related offences; and to enlist and foster public support in combating corruption.

In response to the challenges faced by anti-corruption agencies in the fight against corruption, the Nigerian Bar Association (NBA) established its Anti-Corruption Commission to assist the NBA to take an informed position on corruption and to collaborate with appropriate agencies and organisations to duly imbibe best practices in order to effectively tackle endemic corruption issues in the Nigeria. In fulfilment of its mandate the NBA Anti-Corruption Commission organised a one day conference held on 24th June at the Congress Hall, Transcorp Hilton Hotel Abuja with the theme 'The Fight Against Corruption In Nigeria: The Way Forward.' With a desire to engage in discourse with the Bench, anti-graft agencies and other stakeholders on the current status of the fight against corruption and to brainstorm on practical steps to ensure progress. The opening remarks were by Hon. Justice Mahmoud Mohammed GCON, Chief Justice of Nigeria (CJN) represented by Hon Justice John Fabiyi whilst former Chief Justice Mohammadu Lawal Uwais and Hon Justice Bunmi Oyewole of the Court of Appeal serving with distinction as session chairs. The speakers were outstanding with the keynote speech being delivered by Yunus Ustaz Usman SAN whose presentation was titled 'The Role of the Law Enforcement Agencies in Developing New Approaches to Fight Corruption.' Other speakers were Professor Kevin Nwosu who spoke on the topic 'Are The Existing Anti-Corruption Legislations Effective'; Professor Bolaji Owasanoye on 'Successful Anti-Corruption campaigns-The Role of Government, Private Sector, Civil Society and Lawyers; Mr. Babajide Ogundipe presented on 'Domestic and International Anti-Money Laundering Regime, What Measures Are in Place in Nigeria?'; Mr. Asishana B. Okauru spoke on 'Guidance for Anti-Bribery Compliance, The Importance of a Whistleblower in the Fight Against Corruption' while Mr. Olukoyede's paper was on Plea Bargain in the New Administration of Criminal Justice Act 2015. The Inspector General of Police and the chairman of EFCC, ICPC and the Code of Conduct Bureau were all represented. The Chief Justice of Nigeria Mahmud Mohammed commended the organisers of the event whilst observing that 'allegations about corrupt judicial officers and staff now make headline news on a more frequent basis.' The CJN's remarks clearly indicate that corruption is not limited to the Bench but is also as a direct result of the character of individuals that constitute the Bar. He

stated that 'on the allegations, senior members of the legal profession are also being accused of allowing themselves to be used as conduit pipes for the corruption in the Judiciary.' He further stated that 'Although I will not behave like the proverbial ostrich and hide away from the reality that some Judges and judicial staff are indeed complicit in corrupt practices, however, I must assert that corruption within the Judiciary is only imbibed by a minute minority. I believe that the Nigerian Judiciary is comprised largely of judicial officers who are hardworking, dedicated, intellectually astute, possess the highest standards of morals and ethics, and are committed to their role as dispensers of Justice.'

On his part the President of the Nigerian Bar Association Augustine Alegeh SAN sadly noted that 'despite the establishment of anti-corruption agencies such as the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC), the nation appears to be helpless in its fight against corruption.' He pointed out that the reason there was not much progress in the fight against corruption was due to the lack of implementation of policies on corruption.

Yunus Ustaz Usman in his keynote address observed that the problem with most anti-corruption agencies such as the police, EFCC and ICPC is their lack of independence. 'He quite rightly recommended solutions to the issue of corruption including changing our mind sets, amending existing laws, and imposing life sentences for corrupt officials. He recommended that 'the Attorney-General must establish offices of District Attorneys in every police station, EFCC, ICPC, etc and even at other law enforcement agencies.'

Professor Bolaji Owasanoye in his own paper explained that other key legislations that can give bite to the anti-corruption crusade include whistleblower, witness protection and forfeiture of proceeds of crime laws as well as time bound criminal justice administration. He highlighted the role the Attorney-General of the Federation (AGF) should play in the crusade against corruption, stating that 'the AGF as representative of the executive ought to lead any anti-corruption crusade if it is to succeed. The AGF is the interface of the executive with the legislature to ensure that bills critical to government's anti-corruption effort are prioritised by the legislature and the judiciary to ensure that cases reach conclusion on time.' He understandably stated that anti-corruption agencies had to be independent, further stating that 'it has been proposed that their budget should be a first line charge on the Consolidated Revenue Fund just as that of INEC, NASS and the Judiciary. Allied to funding is independence of tenure, appointment and removal of key leadership of these agencies from office, corruption between the Bar and the Bench, inadequacies of rules of court and poor state of infrastructure in the courts etc. 'He observed that 'the key factor here is that the judiciary has not been firm enough in its handling of high profile corruption cases.'

Asishana Okauru in his own paper stated that 'providing effective protection for whistleblowers supports an open and transparent structure where citizens are not only aware of how to report but also have confidence in reporting procedures without the fear of retaliation for reporting in good faith suspected acts of corruption and other wrongdoing. This is integral for strengthening Nigeria's anti-bribery compliance and efforts to combat corruption, safeguard integrity, enhance accountability, and support a



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clean business environment.' He added that although 'Nigeria has a fair legal framework for supporting access to information however, low awareness means that more effort should centre on advocacy to create an informed citizenry that can exploit the law to its full potential.' Whistleblowers he said 'are a means for promoting democratic accountability and human rights. Ultimately, the government should be encouraged to promote and see whistleblowing as an integral part of the fight against corruption. It is a key instrument to detect and deter corruption.'

When one looks at Singapore and what it has achieved since independence in 1965 when it faced much of the structural and cultural problems common in former colonial territories upon the departure of the British, corruption was prevalent, its detection and prevention was weak and corrupt practices were not perceived as significant or as a matter of national interest. The Singaporean populace was largely uneducated, public officials were poorly paid and so in the absence of established practices and procedures through which citizens obtained their entitlements, bribes to public officials became the order of the day. The Corrupt Practices Investigation Bureau (CPIB) responsible for dealing with corruption and established during British colonial rule, was ineffectual and did not have the authority to prosecute the offences appropriately.

Upon the departure of the British Lee Kuan Yew became Singapore's first Prime Minister, serving from 1959 to 1990. Prime Minister Lee Kuan Yew's determination to move Singaporean society away from its position of moral turpitude was a fact that became well known and over the course of his time in office was evidenced by an unyielding stance against corrupt practices at all levels. His stance was exemplified by his mantra that:

"The moment key leaders are less than incorruptible, less than stern in demanding high standards, from that moment the structure of administrative integrity will weaken, and eventually crumble. Singapore can only survive if Ministers and senior officers are incorruptible and efficient... Only when we uphold the integrity of the administration can the economy work in a way which enables Singaporeans to clearly see the nexus between hard work and high rewards."

The dogged approach Lee Kuan Yew took to combatting corruption earned him an enduring reputation as a statesman of the very highest integrity even if some may say that he was ruthless in driving his agenda home.

Here in Nigeria the crusade against corruption is not just Mr President's alone but one that belongs to all Nigerians collectively. We must therefore all come together to help influence, promote and implement policy making. I have no doubt with determination and a sustained will corruption can and will die a natural and timely death in our country.