

Anti-Corruption Commission Work and NBA's Effort At Ridding Corruption in the Practice of Law



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investigations, the Disciplinary Panels send the report of their findings to the Disciplinary Unit. Where thereafter a prima facie case of professional misconduct is established, the same is forwarded to the Legal Practitioners Disciplinary Committee (LPDC).

Whistleblowing at the Bar and the Bench

With regards to steps the NBA is taking to improve Justice delivery in particular, the NBA has set up an Anonymous Committee of lawyers with an unknown membership across the entire country for the specific purpose of monitoring the adjudication of matters in various courts all over Nigeria. The Anonymous Committee's members will attend specific courtrooms where a Judge has been identified as dilatory, or incompetent or indolent. They will observe and record court proceedings by alternating attendance for two weeks and in some cases apply for court judgments in order to further observe courtroom practices. After the two weeks each member of the Anonymous Committee attending the court will complete and send a report on the courtroom to the NBA with a written statement on oath stating any official complaints.

The NBA President Mr. Augustine Alegeh SAN has said that the initiative is taken not with the intention of policing the Judiciary but as a practical step to sanitise the practice of the law by the Bar. He admitted that the initiative was not a definite way of searching and weeding out corruption, especially since no one has access to bank account details of judicial officers. However he expressed his belief that the initiative is an immediate way of checking incompetence and graft. Examples of incompetence that he expects to be identified and reported on are errors of law in court proceedings, or conduct that is intently untenable and considered corrupt. Where any Judge is found erring in such circumstances the Chief Justice of Nigeria will be duly informed.

Another step the NBA has taken is the establishment of a Judicial Ombudsman at the NBA Secretariat in Abuja. Mr. Alegeh has assured Judges that they may report lawyers who act unethically to the NBA where they will be disciplined accordingly by the NBA's disciplinary mechanisms. Mr. Alegeh also commended the Chief Justice of Nigeria Justice Mahmud Mohammed for his stance against the publication of books by sitting members of the Judiciary. The consolidated effort by the Bar and the Bench to internally sanitise the legal profession is one that Mr. Alegeh considers imperative and thus these initiatives, though not absolute, have become necessary.

The Bar must rise up to the challenge and take the lead in the advocacy that would help influence, promote and implement policy making that will exterminate impunity in not just the Bar and Bench but in the country as a whole.

Being a paper delivered by May Agbamuche-Mbu at the NBA Anti-Corruption Commission Session at the 2015 Annual Conference of the Nigerian Bar Association on August 24th 2015.

know that this is a topic close to each and every person in this room, and one that provokes strong passions and ideas of how to overcome this great challenge of our time. The NBA has made great strides in this area, and indeed will do more in the coming years. So here I will take this opportunity to highlight the work the NBA is doing in this area.

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 society that we have indeed hit a brick wall and desperately need to chart a new path towards Accountability, Transparency and Respect of the Rule of Law. The Economist of June 20th - 26th had a special report on Nigeria titled 'Opportunity Knocks' with one article in particular dealing with corruption under the heading 'The only thing that works.'

In response to the challenges faced by anti-corruption agencies in the fight against corruption, the Nigerian Bar Association's National Executive Committee in 2012 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 within the Bar and in Nigeria as a whole.

The Anti-Corruption Commission

There have so far been two Anti-Corruption Commissions, the first from 2012-2014, chaired by Yusuf Ali SAN and the current Anti-Corruption Commission chaired by Dr Theo Osanakpo, SAN with 9 other members including my goodself. In order to achieve success in the fight against corruption at the Bar, both the Ali and Osanakpo Commissions have had a number of key guiding Terms of Reference namely:

- 1) To help set up Anti-Corruption Committees in all branches of the NBA across Nigeria
- 2) To set and maintain the highest standards of conduct at the Bar
- 3) To develop and facilitate policy dialogue and Anti-Corruption training courses/workshops for stakeholders in the fight against corruption
- 4) To develop feedback mechanisms from anti-corruption agencies and the general public
- 5) To establish formal and transparent mechanisms for applying anti-bribery and corruption prevention measures
- 6) To monitor and investigate allegations of corruption leveled against members of the Bar and Bench
- 7) To identify practitioners who carry out corrupt activities in the legal profession and justice system and forward their names and evidence of corrupt practices to the relevant agencies for prompt action and prosecution
- 8) To identify corrupt practices and factors or circumstances that promote corruption in the Bar and Bench
- 9) To do all things necessary to ensure a corruption free society

The pioneer Commission devised strategies to enable it successfully deliver on these Terms of Reference. One of those strategies was to begin to build effective relationships with the various Anti-Corruption agencies such as the National Judicial Council (NJC), the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and other Related Offences Commission (ICPC) and the Code of Conduct Bureau (CCB). This was achieved in 2014 with a visit to the Chairmen of the NJC, EFCC and Code of Conduct Bureau respectively.

Also in 2014 the Commission set up 15 Anti-Corruption Committees in Auchi, Dutse, Ekpoma, Enugu, Kano, Lagos, Minna, Nsukka, Nnewi, Obolofaor, Ogbomoso, Orlu, Osogbo, Owo and Uyo, whilst in 2015 a further 12 Committees were added in Ado-Ekiti, Agbor, Asaba, Benin, Ikorodu, Lokoja, Oji River, Ota, Owerri, Ughelli, Warri and Zaria.

In fulfillment of its mandate the NBA

Anti-Corruption Commission organised in 2013 a two day seminar with the theme 'Practical Ways to Combat Corruption in the Justice Sector in Nigeria' where members of the Bar and the Bench reflected on the various ways to tackle corruption within the Legal Profession and participated in the International Anti-Corruption day.

To further fulfill its mandate the NBA Anti-Corruption Commission organised a one day seminar on 24th of June 2015 at the Transcorp Hilton in 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 made by Hon. Justice Mahmud 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 served 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. Ola Olukoyede's paper was on 'Plea Bargain in the New Administration of Criminal Justice Act 2015'. The Inspector General of Police and the chairmen of the EFCC, ICPC and the Code of Conduct Bureau were all represented.

The Chief Justice of Nigeria Mahmud Mohammed whilst commending the organisers of the event observed 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 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.'

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 being made 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 mindset, amending existing laws and imposing life sentences for corrupt officials. He further recommended that 'the Attorney-General must establish offices of District-Attorneys in every police station, the EFCC, ICPC, etc and even at other law enforcement agencies.'

Professor Bolaji Owasanoye, who interestingly was recently appointed by President Muhammadu Buhari to the Presidential Advisory Committee against Corruption as a member and Executive Secretary, 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. Professor Owasanoye 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 with 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 budgets should be a first line charge on the Consolidated Revenue Fund just as that of INEC, the National Assembly and the Judiciary. Allied to funding are other key issues such as the independence of tenure, appointment and removal from office of the leadership of these agencies. Corruption between the Bar and the Bench, the inadequacy of rules of court and the poor state of infrastructure in the courts were also highlighted. He observed that 'the key factor here [with regards to corruption between the Bar and the Bench] 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 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.'

At the end of the conference the Anti-Corruption Commission released a Communiqué highlighting new key guidance for the Bar in the fight against corruption. The Communiqué and the papers delivered will be formally presented to the Presidential Advisory Committee on Corruption Chaired by Professor Itse Sagay SAN.

Future Plans

The Commission is working assiduously to explore new and better ways of promoting the NBA's anti-corruption drive through advocacy, social media, workshops and conferences and will participate actively in this year's forthcoming International Anti-Corruption Day on 9th December.

The NBA and the Disciplining of Lawyers

The NBA is taking the disciplining of lawyers seriously. It has a dedicated Disciplinary Unit within its Legal Research and Development Directorate. The Disciplinary unit receive and respond to petitions concerning all manner of complaints, including, but not restricted to corruption, malfeasance and graft. At this point in time they have 780 active petitions with more expected before the end of August. Petitions against Legal practitioners are treated expeditiously and sent to the NBA Disciplinary Panels located in each of the six geo-political zones in the country for investigation. Upon conclusion of such