



Review Article

The Pivotal Role of A Lawyer in Combating Official Corruption in Nigeria

James Ushie Ebuara 

Nigerian Law School, Enugu Campus, Nigeria

Article history: Received 07 October 2016; Accepted 27 December 2016; Available online 31 December 2016

ABSTRACT

In the past ten years, Nigeria has remained at the apex of the international corruption index. Corruption has reached an epidemic level in Nigeria, finally bringing the country to its knees as Nigeria cannot presently meet its international trade obligations due to its dwindling foreign reserve. Public officials in the past have helped themselves with the pool of public funds without any repercussion domestically. The present administration in the country has elevated the fight against corruption to a high point, however, there are irreconcilable contradictions in the mechanism of justice apportionment, which tend to neutralize any efforts of the government to bring justice to looters of the public coffers. One of such challenges is the conduct of members of the legal profession. This paper therefore examines the role of lawyers in combating corruption. It demonstrated how lawyers, including members of the bench (judges) have exploited the loopholes in the Nigerian system to shield corrupt government officials from obtaining justice for corruption. The paper suggested ways in which the anticorruption crusade of the federal government will be improved through the enhanced practices of lawyers that prosecute offenders, defence counsel and the judges in Nigeria.

Keywords: corruption; lawyers; legal profession; anti-corruption; Nigeria.

HOW TO CITE: Ebuara, U. (2016). The Pivotal Role of a Lawyer in Combating Official Corruption in Nigeria. *Rechtsidee*, 3(2), 113-126. doi:<http://dx.doi.org/10.21070/jjhr.v3i2.342>

ABSTRAK

Fakta bahwa Nigeria adalah bangsa yang korup bukan merupakan hal yang baru. Nigeria merupakan salah satu Negara yang paling korup di dunia. Masyarakat umum dan bahkan badan eksekutif Pemerintah Federal terus mempertanyakan bagaimana anggota profesi hukum melaksanakan peran mereka dalam menerapkan hukum karena mereka memiliki keyakinan mutlak dalam hukum sebagai perlindungan terhadap kecenderungan yang merampas kesejahteraan rakyat, dehumanisasi rakyat dan bahkan mengancam keberadaan negara mereka. Rakyat menunggu hukum untuk merespon kecenderungan korupsi ini dengan menempatkan mereka pada tahap pengecekan, menghentikan atau mengendalikan koruptor, mereka telah menyaksikan ketidakmampuan hukum untuk menanggapi masalah ini dengan efektif dan telah menyaksikan korupsi terus berlanjut dan meluas. Tujuan penelitian ini adalah untuk melihat peran pengacara sebagai hakim, sebagai para jaksa dan pengacara pembela dalam mempromosikan dan mendorong korupsi dalam politik tubuh kita. Lebih lanjut penelitian ini juga mengkaji peran pengacara harus dalam pemberantasan korupsi. Pengacara sebagai agen perubahan sosial harus berada di barisan depan untuk reorientasi dalam memerangi korupsi dan pembaruan sosial secara umum. Untuk secara efektif memainkan peran ini anggota profesi hukum harus membersihkan diri mereka dari kecenderungan korupsi dalam pelaksanaannya di pengadilan.

Kata kunci: korupsi; advokat; profesi hukum; anti korupsi; Nigeria.

E-mail address: joebuara@gmail.com

Peer reviewed under responsibility of Universitas Muhammadiyah Sidoarjo.

© 2016 Universitas Muhammadiyah Sidoarjo, All right reserved, This is an open access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>)

1. Introduction

The arrest in 2004 in London of the Plateau state Governor, Joshua Dariye¹ and that of D. S. P. Alamaieyeseigha, who was impeached as Bayelsa state Governor in 2005² seriously dented the corporate image of Nigeria in the international corruption index³. These two incidents together with the arrest and conviction in Nigeria of the former Inspector General of Police, TafaBalogun for money laundering and Sundry offences not only show the extent of corruption in the country, but dramatically brought to the centre-stage the connection that exists between corruption and underdevelopment.

Corrupt Nigerian public officers are known to have fat foreign bank accounts even though they are statutorily prohibited from owning and operating such accounts⁴. These public officers do not only siphon funds meant for the benefit of the entire citizenry to foreign countries, but such funds are usually disguised to preclude the discovery of their actual sources, and applied either for the acquisition of property or other economic activities in such foreign countries. There is no doubt that the loss of such stolen resources through endemic corruption and abuse of office have had inimical effect on the economy of the country. These activities have created enormous distortions in the economic index and resulted in lack of control on monetary and fiscal policies since a large proportion of the funds are transferred and remain outside the Nigerian economy. Not only do they impact negatively on the social and moral fabric of the society, they also affect the productive capacity of the economy and thus perpetuate the country's underdevelopment⁵.

The Nigerian state enacted the Independent and Corrupt Practices and Other related Offences Act and the Economic and Financial Crime Commission Act to deal official corruption and financial crimes both of which have undermined developmental efforts of government and impeding financial transactions locally and internationally. Curiously, more than a decade of the implementation of the said laws, corruption appears to have assumed a more devastating dimension. The question therefore, is why have we got it wrong?

¹“419 of Friday September 3,” *The Guardian* 21, no. 9 (2004): 1–2.

²“Friday September 16,” *This Day Newspaper* 11, no. 3799 (2005): 1.

³ Sunday Enejo Samuel, Oluseyi Aju, and Moses Elaigwu, “Implication of Economic and Financial Crimes Commission and Corruption on the Consolidation of Democracy and Sustainable Development and Growth in Nigeria from 2004-2008,” *Journal of Poverty, Investment and Development* 4 (2014): 19–36. [View Item Google Scholar](#)

⁴ Paragraph 3, Part 1 of the Fifth Schedule to the 1999 Constitution, which prescribes a Code of Conduct for Public Officers.

⁵ Florence Anaedozi, “Is Grand Corruption the Cancer of Nigeria? A Critical Discussion in the Light of an Exchange of Presidential Letters.,” *European Scientific Journal* 12, no. 5 (February 29, 2016): 1857–7881. [Google Scholar Crossref](#)

This paper therefore sets out to x-ray the role of lawyers (Judges inclusive) in the fight against corruption and corrupt practices using the legal instruments at their disposal. Recently the Nigerian President, Alhaji Muhammadu Buhari is quoted as saying that his fight against corruption is being impeded by the judiciary.⁶ This statement has generated a lot of reactions from many quarters, particularly, the apex body for lawyers and the Judiciary. It is against this background that concerted efforts must be made to ensure that this cankerworm does not continue to infect and spread its unhealthy tentacles in the country. This brings to the fore the fundamental role of law as a malleable regulatory mechanism that can effectively be used in the fight against these menaces. The crucial question then is, to what extent can the institution and other stakeholders saddled with the responsibility for interpreting the laws prepared and equipped in the discharge of this enormous task?

This paper therefore examines the role the legal profession as the major stakeholder in the administration of justice should play in the fight against corruption using the instrumentality of the law.

2. The Challenge before the Legal Profession

The present administration predicated its change mantra on fight against corruption with a view to strengthening public institutions. For instance, a recent statement credited to the Vice President of Nigeria noted that the immediate past administration in the country misappropriated huge sums of money, proceeds of crude oil sales in the last ten years without any visible evidence of improvement in infrastructure.⁷ The misappropriation was markedly evident in the diversion of resources appropriated for purchase of weapons for the Armed Forces to fight the Boko Haram insurgency in what is now known as ‘Dasukigate’.⁸ There is consensus among policymakers and indeed, both domestic and international experts that the present decadence in terms of the corruption index in Nigeria must be confronted by the strengthening of governmental institutions, especially the judiciary and the bar (body of lawyers). The challenges of accomplishing this task, which has become the paradoxes of the Nigerian state, are the irreconcilable fault lines in the fibre of the Nigerian society regarding

⁶ E. A. Agim, *The Role of the Lawyers in Stopping Impunity for Government Office Corruption, Dismantling Kleptocracy and Promoting Genuine Democratic Governance* (Nigerian Bar Association, Ogoja and Ikom branches: Annual Law Week Presentation, n.d.). p.7.

⁷ “Corrupt Persons in Legislature, Judiciary—Osibanjo,” *The Punch Newspaper*, February 22, 2016. p.34.

⁸ The scandal involved monumental financial impropriety by the immediate past administration of President Goodluck Jonathan of a staggering figure of \$2.1 billion traced to the office of the National Security Adviser, Colonel Dasukirt. The money was purportedly meant to purchase arms (arms deal) to fight the Boko Haram insurgency, but illegally diverted to various notable personalities in Nigeria to be distributed to voters to influence the outcome of the 2015 presidential elections. “Dasukigate: ‘Who Got What’ from \$2.1bn Arms Deal?,” *P.M. News*, 2016. Accessed 25 January 2016. [View Item](#)

political affiliation and patronage, ethnicity, regionalism and religion. These fault lines directly fuel corruption, mediocrity and nepotism, which are implicated in poor implementation of policies and unsatisfactory enforcement of laws⁹¹⁰. In fact, the Vice President exhibited clear understanding of the impact of corruption on the Nigeria state when he concluded that no sector of the polity is completely exonerated, from the public to the private sector, and indeed, the average Nigerian individual, so that the fight against corruption is actually a struggle against the entrenched system.¹¹

This statement is constantly reechoed by the anti-corruption Tsar, the Chairman of the Economic and Financial Crimes Commission, who has noted the connivance of the top notch of the legal profession in Nigeria with corrupt government officials to help them escape justice.¹² In the case of *Ekwenugo v. FRN*,¹³ Justice Fabiyi JCA (as he then was) expressed similar opinion noting that because Nigerian judges operate within the context of the social and political atmosphere in Nigeria, they must take into cognizance the nation's abysmal performance in the international corruption index in handling corruption cases brought before them. Indeed, because Nigeria is a constitutional democracy, all organs, institutions and citizens are bound by the provisions of the constitution, which is supreme.¹⁴ Therefore, those who hold government offices and exercise governmental power must do so within the confines of constitutional provisions, for the welfare and prosperity of the people.¹⁵ When such persons rather convert the common good or public fund into their personal use, it becomes doubtful if governance is operated in accordance with the rule of law, especially the constitution. The inability of the system to hold people accountable in turn creates impunity among the managers and administrators of scarce resources.¹⁶ When government offices become an instrument in the hands of those occupying them to plunder and share state resources amongst themselves in complete disregard of the common good and wellbeing of the people as it has happened in the past few years in Nigeria, the constitution and other laws are certainly undermined.

⁹ Nasir Ahmad Sarkin Dori, "Nexus between Causes, Dimensions, Adverse Effects and Solutions of Corruption in Nigeria," *International Journal of Political Science and Development* 4, no. 3 (2016): 82–97. [Crossref](#)

¹⁰ Oluwaseun Olawale Afolabi, "The Role of Religion in Nigerian Politics and Its Sustainability for Political Development," *Net Journal of Social Science S* 3, no. 2 (2015): 42–49. [View Item Google Scholar](#)

¹¹ "Corrupt Persons in Legislature, Judiciary–Osibanjo." p. 7.

¹² "23rd February, 2016.," *Premium Times*, February 23, 2016.

¹³ (2001) 6 NWLR (Pt. 708) 171.

¹⁴ Section 1(1) of the Constitution of the federal Republic of Nigeria 1999 as amended.

¹⁵ *Ibid.* Section 14(2)(c).

¹⁶ Sunday Abraham Ogunode, "Criminal Justice System in Nigeria: For the Rich or the Poor?," *Humanities and Social Sciences Review* 4, no. 1 (2015): 27–39. [View Item Google Scholar](#)

At the onset of the present administration, which came into office in May 2015, the issue of corruption featured prominently on top of government priorities in a change mantra. Government efforts have since been refocused on eliminating the menace in the social and political life of Nigeria. However, as noted above, one of the key instrument for the fight against corruption, the judiciary, including the bar has in the past, connived with looters of the public treasurer to sustain the vicious circle of corruption in Nigeria. Therefore, for the new campaign against corruption to succeed, the legal profession including the bar and the bench must be restructured to introduce new procedural and substantive laws to regulate the practice of law. Although, there are other far reaching reforms within the profession that if implemented may go a long way to ensuring adherence to ethical standards. These other reforms would impact positively on the role of lawyers in combating corruption in Nigeria. Particularly, members of the legal profession in Nigeria must resolve how to deal with the constant conflict between democratic values in criminal cases and the need to maintain their role as the bearers and guardian of the law in a genuine democracy.¹⁷ For instance, the judiciary (bench) has the lead or dominant role in administering the constitution and other laws because it is the exclusive owner of judicial powers under the constitution.¹⁸ These powers include expounding the legal regimes available in the country and upholding the legality and legitimacy of the exercise of powers by other organs of government and actions and omissions of individual persons and private bodies.¹⁹ Lawyers or the bar on the other hand, invokes the exercise of judicial powers to enforce the constitution and other laws in cases they conduct in courts. Lawyers are specifically trained to administer the rule of law and therefore, they are exclusively entitled to the license and privileges of law practice. The society expects that they will function as advocates of the rule of law.

Thus, we shall examine the role of lawyers as prosecutors, defence counsel and judges in criminal cases involving corruption and other related crimes. The starting point is the role of lawyers as prosecutors. Their duties include:

- a. to prosecute and not persecute,
- b. give honest, objective and legally sound pre-trial opinion to investigating officers and ensure that the pre-trial criminal processes are fair and produce facts that disclose a good case against the accused.

¹⁷ Fred C Zacharias, "True Confessions About the Role of Lawyers in a Democracy," *Fordham Law Review* 77, no. 6 (2009): 1591–1609. [View Item Google Scholar](#)

¹⁸ Section 6 of the 1999 Constitution of Nigeria as amended.

¹⁹ *Ibid*, Section 6(6).

-
- c. to ensure that only cases with facts that show prima facie case are brought to court.
 - d. to be well equipped with good knowledge of all laws relating to the case, good research writing and criminal pleading skills.
 - e. to diligently and painstakingly prepare the charge and other processes to commence the criminal case.
 - f. to be diligent, honest, dispassionate, zealous and fair in the prosecution of the case.
 - g. to assist the court in doing substantial justice in the case.
 - h. to prevent the trial from being frustrated by any abuse of court process and the dilatory tactics of the defence.
 - i. to pursue and be committed to an expeditious trial of the case.
 - j. to ensure that the public expectation of legitimate law enforcement is not defeated.
 - k. to scrupulously adhere to the ethics regulating the Professional conduct of members of the legal profession.
 - l. Not to compromise or undermine the efficient prosecution of the case.

Defence advocates are generally private lawyers. As defence counsel, the lawyer must bear in mind that as a member of the legal profession, he has a threefold duty to his client, the court and the society at large.²⁰ As counsel in a criminal case, he has the duty to assert his client's position using his best endeavors to explore all lawful defences available to his client on available facts. However, the scope of this duty to his client does not include:

- a. Saving or rescuing his client from the law.
- b. Devising all kinds of tactics to kill the case, including the filing of suits to change aspects of the pre-trial criminal process to disrupt and frustrate the pre-trial process and pre-empt the ensuing trial process.
- c. Exploiting the rules of court meant to facilitate the expeditious disposal of the case, to delay and frustrate the trial of the case.
- d. Engaging in fabrication of facts and advising his client to lie.
- e. Securing the discharge and acquittal of his client by all means and at all cost
- f. Corrupt influence of the prosecutor or judge to compromise the justice of the case.

A defence counsel is an officer of the court as well as an officer of the legal system and so has a special responsibility to participate objectively and honestly in the adversarial truth searching process as well as assist the court in the expeditious trial of the case. He must also guide the court honestly and properly on the applicable law and assist the court in

²⁰ The famous dictum of Oputa JSC in the case of case of *Godwin Josiah v. The State* (1985) 1 NWLR 125.

ensuring that substantial justice is done, avoid doing anything that will disrepute the court in the expeditious trial of the case, and not to delay and frustrate or out rightly prevent the trial. He must adhere strictly to the ethics of the profession as provided for in the rules of professional conduct.

As members of the legal profession, lawyers are public citizens who enjoy tremendous amount of public trust and confidence from the people who expect them to use their knowledge and skills to ensure that the aims of law enforcement are not defeated, that the rights of the accused are observed, and that trial outcomes meet the objective of protection of the society. One of the major causes of impunity for crimes of corruption in government is that defence lawyers neglected their duties to the court and the society and conducted their clients' case beyond the legal limits of their duty to their client. They approach the discharge of their client-advocate duty as a mission to rescue or save their client from the law and not as a defence to the allegations of facts against him.

It is obvious that most private practitioners adopt the Henry Lord Brougham's notion that a lawyer should, "know no one but his client".²¹ When Lord Brougham uttered these words, he was speaking in direct response to the notion that he, as defence counsel for Queen Caroline in a charge of treason, should constrain his tactics on her behalf in order to preserve national interest. Brougham argued that, the lawyer's commitment to the client's interest should outweigh any separate concerns about a properly functioning and secure government. The duty of the lawyer is to save his client by all means and at whatever cost and hazards to the detriments of all other persons.²² Following Brougham's notion, some practitioners adopt the following approach:-

- a. Pre-empting the initiation of criminal case against their clients by filing fundamental rights enforcement applications purporting to challenge the procedure of their clients' arrest and detention and contending that there is no reasonable basis for their clients' arrest and detention.
- b. Obtaining injunctions to prevent the prosecution of their client who were involved in corrupt practices involving stupendous sums of money. But the main object of filing such applications is to forestall the impending criminal case against their clients.
- c. Devising all kinds of dilatory tactics to kill the case.
- d. Exploiting the rules of court to delay and frustrate the trial of the case.

²¹ *Ibid.*

²² *Ibid.*

-
- e. Exercising the right to fair hearing in such a manner as to delay and frustrate the trial of their clients.
 - f. Fabricating facts and advising their clients to lie.
 - g. Overriding their client's decision to admit to the charge against him and setting up a false defence.
 - h. Initiating and negotiating plea bargains that enable their clients to keep a substantial part of the stolen money.
 - i. Helping their client to hide the stolen funds from the reach of the investigating agency.
 - j. Filing appeals against every of their pre-trial applications and on interlocutory issues to delay and frustrate the trial process.
 - k. Influencing judges to compromise the justice of the case.
 - l. Harassing, intimidating and blackmailing the judge who refuses to be influenced and insists on the expeditious disposal of the case.²³

The lawyer as judge presiding over a criminal case or any case, involving allegation of corruption by holders of public office has the duty to:

- a. Ensure that the trial of a corruption case reflects the objectives of the relevant statute under which an accused is charged in the particular case and the broad objectives of society.
- b. Ensure that the trial is fair and both the prosecution and defence have equal arms.
- c. Ensure that public expectation of legitimate law enforcement is not defeated.
- d. Be fully committed to the expeditious trial of the case by having a firm control of the pace of the proceedings and not allow any party dictate the pace of the proceedings.
- e. Ensure that the trial of the case is not delayed and frustrated by the abuse of court process or the abuse of the exercise of the right of fair hearing and filibustering.
- f. Avoid the issuance of injunctions to prohibit or prevent the investigation and prosecution of persons reasonably suspected of committing an offence.
- g. Ensure an expeditious trial and determination of the case.
- h. Not allow the use of court processes to disrupt and frustrate the pre-trial criminal processes those are lawfully carried out by the competent law enforcement agencies, such as investigation, arrest, detention, searches and obtaining of written statements from persons.

²³ Ibrahim Abdullahi, "Independence of the Judiciary in Nigeria: A Myth or Reality?," *International Journal of Public Administration and Management Research* 2, no. 3 (2014).

- i. Ensure that the trial process takes into account the very serious nature of the crime and its effect on the welfare of the society.
- j. Properly exercise his discretion in granting or refusing to grant bail pending trial. As was held in the Supreme Court case of *Abacha v. State*²⁴ that the trial court has the discretion to refuse bail if the court is satisfied that there are substantial grounds for believing that applicant for bail pending trial would abscond, or interfere with witnesses or otherwise obstruct the course of justice. The conditions for granting or refusing bail were expanded in *Dokubo-Asariv.FRN*²⁵ to include (i) the nature of the charge (ii) the strength of the evidence (iii) the severity of the punishment (iv) crime record of the accused (v) the likelihood that the accused may jump bail (vi) the capacity of the accused to suppress evidence (vii) the probability of guilt of the accused (viii) need for protective custody of the accused.
- k. Judiciously and judicially exercise his discretion in resolving conflicts between the two democratic values of public interest and the accused's fundamental right to personal liberty and privacy. These include ensuring that where there is reasonable basis for suspecting a person of committing a crime, public expectation of legitimate law enforcement is not defeated by freeing the person and ensuring that the accused's right to personal liberty and privacy are not violated during arrest, detention or search.²⁶

What has happened in the past is that in most cases, the judges did not observe and discharge the above listed duties.²⁷ Many cases were easily frustrated by undue delay in the trial processes caused by the abusive use of procedural rules of court, lengthy and unjustified adjournments, lack of commitment of the Judge and filibustering.²⁸ Some judges allowed pre-trial processes to be disputed and delayed or frustrated by the abusive use of the process to challenge the legality of such pre-trial processes, such as investigation, search, arrest, detention, and taking of written statements. Thus, in Nigeria, once a person is suspected of having stolen public fund or abused his office in a manner that is inimical to the interest of

²⁴ (2002) LPLR at 15.

²⁵ (2007) 5-6 SC at 150.

²⁶ Matthew Burkaa, "The Role of the Judiciary in Combating Corruption in Nigeria," in *Integrity and Improving Citizens' Access to Justice on Tuesday 25th September* (SERAP MEDIA ROUNDTABLE on Magistrate Courts Ethics, 2012). [View Item](#)

²⁷ Eme Okechukwu I, "Strategies for Winning War Against Politically Exposed Persons in Nigeria," *Singaporean Journal of Business Economics, and Management Studies* 1, no. 11 (2013): 60–82. [View Item](#) [Google Scholar](#)

²⁸ Ibrahim Lamorde, "Adopting Strategies for the Speedy Dispensation of Corruption Cases: The Economic and Financial Crime Commission's Position," in *Nigerian Bar Association Annual General Conference, 24th August 2015*, (Abuja, 2015). pp. 2-5.

society, he rushes to court to file a suit challenging the pre-trial process and seeking to stop it. Such suits are an abuse of process. The effect is that they disrupt and out rightly frustrate the pre-trial processes by their delayed and protracted hearing and determination. In fact, some of those cases resulted in the issuance of glaringly unjustified injunctions permanently stopping the continuation of the pre-trial process and prosecution of persons reasonably suspected of having committed an offence.²⁹³⁰ The issuance of an injunction to prevent the investigation or search or arrest and detention of a person reasonably suspected of committing an offence or the prosecution of such a person for the offence is an abuse of judicial power that disrepute the court and the due administration of criminal law. It arouses in the public the feeling of betrayal by the court.

In the few cases that have been tried to conclusion in Nigeria, upon conviction, the judges impose sentences without regard to trial principles of punishment in criminal law which requires that sentences must have regard to the accused, the nature of the offence, the circumstances of the case and the impact of the offence on the wellbeing of society.³¹ The effect of such sentencing pattern on the part of judges is to make a mockery of the entire trial process and deceive the public that the accused has been tried and punished.³² Such sentences glaringly amount to helping the convict escape proper accountability for his crime against the people. At the same time, these judgments often fail to recover and restore the stolen public funds thereby allowing the culprits to benefit from the proceeds of their wrongdoing while leaving the people who are the victims of crime without justice.³³ The failure of the prosecutor, the defence counsel and the judge to discharge their respective duties in criminal process in respect of corruption cases in Nigeria is responsible for the failed prosecution and trial of corruption cases and inefficient enforcement of anti-corruption laws, resulting in impunity and kleptocracy.³⁴

It is clear that the legal profession can positively impact on the anti-corruption crusade in Nigeria only if members of the profession are able to balance the democratic value of fair trial in criminal cases with and legitimate public expectation of law enforcement and

²⁹ For example the cases of Prince AbubakarAudu v. Economic and Financial Crimes Commission and Executive Chairman, Economic and Financial Crimes Commission, Federal High Court of Nigeria, Suit No. FHC/KD/CS/110/2006.

³⁰ Access to Justice, "The EFCC Lifts the Lid on Corruption in the Judiciary," *The International Juvenile Justice Observatory*, 2016. pp.1-15. [View Item](#)

³¹ Tosin Osasona, "Time to Reform Nigeria ' S Criminal Justice System," *Journal of Law and Criminal Justice* 3, no. 2 (2015): 73–79. [View Item](#) [Google Scholar](#) [Crossref](#)

³² Financial Crimes Commission, "Corruption on Trial?The Record of Nigeria's Economic and Financial Crimes Commission" (August, New York, 2011). pp.31-34. [View Item](#)

³³ Sherriff Folarin, "Corruption, Politics and Governance in Nigeria," n.d. pp. 14-20. [View Item](#)

³⁴ Justice, "The EFCC Lifts the Lid on Corruption in the Judiciary." p. 28.

public interest. A defence counsel should not view justice from only the narrow point of his client; justice should be for the accused, the state who is the custodian of public interest and the society who have been deprived of the benefits of governance. Oputa JSC (as then was) stated the principle of justice in his philosophical conceptualization of justice, by emphasizing the strict application of the trinity of justice in the determination of criminal trials.³⁵³⁶ The trial process must reflect the consideration of the two sets of values. The common experience is that the defence counsel focuses only on rescuing his client from the criminal process and disregards the glaring pervasive impact of the crime on society. While counsel is entitled to represent an accused in a criminal case and not refuse to do so because of the horrific nature of the alleged crime, he is not to seek to win at all cost or hold himself out as being on a mission to rescue the accused from justice. He must not sabotage the due and expeditious process and justice of the case.³⁷

It should be noted that the conduct of lawyers in corruption cases in Nigeria has led to public distrust, contempt and hostility towards the profession. Although, hostility towards the legal profession on account of misconduct of practitioners is a worldwide phenomenon, members of the profession in Nigeria frequently escape any sanction for their misconduct.³⁸ For example, the legal profession was abolished in Prussia in 1780 and in France in 1789, though both countries eventually realized that their judicial systems could not function efficiently without lawyers.³⁹ Complaints about too many lawyers were common in England and the United States in the 1840s, Germany in the 1910s and in Australia, Canada, and Scotland in the 1980s. Public distrust of lawyers reached record heights in the United States after the Watergate scandal. In the aftermath of Watergate, legal self-help books became popular among those who wished to solve their legal problems without having to deal with lawyers. Lawyer jokes (already a perennial favourite) also soared in popularity in English-speaking North America as a result of Watergate. In 1989, American legal self-help publisher Nolo press published a 171-page compilation of negative anecdotes about lawyers from throughout human history.⁴⁰ In “Adventures in Law and Justice”, legal researcher Bryan

³⁵ The case of *Godwin Josiah v. The State* (supra).

³⁶ J. U. Ebuara, “Victims of Crime under Nigerian Law: An Appraisal” (University of Jos, 2002).

³⁷ Ibrahim Abdullahi Frhd, “The Role of Legal Practitioners in the Fight against Corruption in Nigeria,” *International Journal of Innovative Legal & Political Studies* 4, no. 3 (2016): 25–33. [View Item Google Scholar](#)

³⁸ Ibrahim Tanko Muhammad, “That This Profession May Not Die : The Need to Flush Out Miscreants,” *Journal of Sustainable Development Law and Policy* 5, no. 1 (2015): 219–41. [View Item](#)

³⁹ Agim, *The Role of the Lawyers in Stopping Impunity for Government Office Corruption, Dismantling Kleptocracy and Promoting Genuine Democratic Governance*. p. 4.

⁴⁰ Andrew Roth, Jonathan P. Roth, and Barbara Kate Repa, *Devil’s Advocates: The Unnatural History of Lawyers* (Berkeley: CA: Nolo Press, 1989). [View Item](#)

Horrigan dedicated a chapter to “Myths, Fictions, and Realities” about law illustrating the perennial criticism of lawyers as ‘amoral guns for hire’.⁴¹ More generally, in “Legal Ethics: A Comparative Study”, law professor Geoffrey C. Hazard, with Angelo Dondi briefly examined the “regulations attempting to suppress lawyer misconduct” and noted that their similarity around the world was paralleled by ‘remarkable consistency’ in certain ‘persistent grievances’ about lawyers that transcends both time and locale, from the Bible to medieval England to dynastic China.⁴² These include abuse of litigation in various ways, including using dilatory tactics and false evidence and making frivolous arguments to the courts; preparation of false documentation, such as false deeds, contracts, or wills; deceiving clients and other persons and misappropriating property; procrastination in dealings with clients; and charging excess fees.⁴³ In Ghana during the Jerry Rawlings revolution, there was public hostility against the legal profession because the lawyers and judges were regarded as responsible for the reign of impunity and the resulting kleptocracy in Ghana. Four High court judges were extra-judicially executed by the revolutionaries, however, many lawyers escaped to neighbouring West African states.⁴⁴

It should be noted that the unethical practices and obviously unreasonable decisions in cases of public office corruption by members of the legal profession have created the pervasive impunity and kleptocracy in the country. Having created this unpleasant situation that has glaringly endangered the well-being of the citizenry and the existence of our country, lawyers must collectively work towards adhering to ethical standards in the profession, especially in criminal cases. They must adopt the best ethical practices that would facilitate expeditious, fair and just trial of corruption cases in order to change the wide held public perception that they connive with perpetrators and beneficiaries of the menace. The right of a citizen of a country to benefit from the country’s resources is the most important of all his rights.⁴⁵ Without it all his constitutional, fundamental and other legal rights become illusory. Experience has demonstrated that deprivation of the rights of citizens to the use of their country’s resources exposes them to dehumanization, pauperization, hopelessness, and renders them vulnerable to manipulation by a small cabal of corrupt officials.

⁴¹ Bryan Horrigan, *Adventures in Law and Justice: Exploring Big Legal Questions in Everyday Life* (UNSW Press, 2003). [View Item](#)

⁴² Geoffrey C. Hazard and Angelo Dondi, *Legal Ethics: A Comparative Study* (Stanford University Press, 2004). p.302. [View Item](#)

⁴³ B. Hazarika, “Role of Lawyer in the Society: A Critical Analysis,” *The Clarion* 1, no. 1 (2012): 148–52. [View Item Google Scholar](#)

⁴⁴ Agim, *The Role of the Lawyers in Stopping Impunity for Government Office Corruption, Dismantling Kleptocracy and Promoting Genuine Democratic Governance*. p.26.

⁴⁵ Section 14(2) (b) of the 1999 Constitution as amended.

3. Conclusion

Nigeria is ranked among the most corrupt nations in the world. Their political leaders as well as the public suffer a great deal of discomfort on this unenviable status to which our nation has deteriorated. Political leaders over the years paid lip service to eliminating corruption. The present leadership has however, vowed to deal decisively with corruption and corrupt practices. The crucial question we have attempted to answer in this paper is what role the legal profession has to play in the renewed effort at eliminating corruption. The paper found that members of the legal profession have been implicated in many corruption cases in Nigeria and that this happened because lawyers including judges have failed to adhere to ethical standards in the profession while the mechanism of enforcement of these standards is lacking. The paper therefore suggested new practices which members of the legal profession must implement in dealing with cases involving official corruption in Nigeria in the context of the roles of the prosecutor, the defence counsel and the judge. Indeed, the paper concludes that the anti-corruption crusade of the present government would not succeed if the conduct and practices of members of the legal profession are not overhauled in line with the suggestions of the paper.

Bibliography

Journal:

- Afolabi, Oluwaseun Olawale. "The Role of Religion in Nigerian Politics and Its Sustainability for Political Development." *Net Journal of Social Science S* 3, no. 2 (2015): 42–49. [View Item Google Scholar](#)
- Anaodozie, Florence. "Is Grand Corruption the Cancer of Nigeria? A Critical Discussion in the Light of an Exchange of Presidential Letters." *European Scientific Journal* 12, no. 5 (February 29, 2016): 1857–7881. [Google Scholar Crossref](#)
- Dori, Nasir Ahmad Sarkin. "Nexus between Causes, Dimensions, Adverse Effects and Solutions of Corruption in Nigeria." *International Journal of Political Science and Development* 4, no. 3 (2016): 82–97. doi:10.14662/IJPSD2016.021. [Crossref](#)
- Frhd, Ibrahim Abdullahi. "The Role of Legal Practitioners in the Fight against Corruption in Nigeria." *International Journal of Innovative Legal & Political Studies* 4, no. 3 (2016): 25–33. [View Item Google Scholar](#)
- Hazarika, B. "Role of Lawyer in the Society: A Critical Analysis." *The Clarion* 1, no. 1 (2012): 148–52. [View Item Google Scholar](#)
- I, Eme Okechukwu. "Strategies for Winning War Against Politically Exposed Persons in Nigeria." *Singaporean Journal of Business Economics, and Management Studies* 1, no. 11 (2013): 60–82. [View Item Google Scholar](#)

Ibrahim Abdullahi. "Independence of the Judiciary in Nigeria: A Myth or Reality?" *International Journal of Public Administration and Management Research* 2, no. 3 (2014).

Justice, Access to. "The EFCC Lifts the Lid on Corruption in the Judiciary." *The International Juvenile Justice Observatory*, 2016. [View Item](#)

Muhammad, Ibrahim Tanko. "That This Profession May Not Die: The Need to Flush Out Miscreants." *Journal of Sustainable Development Law and Policy* 5, no. 1 (2015): 219–41. [View Item](#)

Ogunode, Sunday Abraham. "Criminal Justice System in Nigeria: For the Rich or the Poor?" *Humanities and Social Sciences Review* 4, no. 1 (2015): 27–39.

Osasona, Tosin. "Time to Reform Nigeria ' S Criminal Justice System." *Journal of Law and Criminal Justice* 3, no. 2 (2015): 73–79. [View Item](#) [Google Scholar](#) [Crossref](#)

Samuel, Sunday Enejo, Oluseyi Aju, and Moses Elaigwu. "Implication of Economic and Financial Crimes Commission and Corruption on the Consolidation of Democracy and Sustainable Development and Growth in Nigeria from 2004-2008." *Journal of Poverty, Investment and Development* 4 (2014): 19–36. [View Item](#) [Google Scholar](#)

Zacharias, Fred C. "True Confessions About the Role of Lawyers in a Democracy." *Fordham Law Review* 77, no. 6 (2009): 1591–1609. [View Item](#) [Google Scholar](#)

Proceeding:

Agim, E. A. *The Role of the Lawyers in Stopping Impunity for Government Office Corruption, Dismantling Kleptocracy and Promoting Genuine Democratic Governance*. Nigerian Bar Association, Ogoja and Ikom branches: Annual Law Week Presentation, n.d.

Burkaa, Matthew. "The Role of the Judiciary in Combating Corruption in Nigeria." In *Integrity and Improving Citizens' Access to Justice on Tuesday 25th September*. SERAP MEDIA ROUNDTABLE on Magistrate Courts Ethics, 2012. [View Item](#)

Lamorde, Ibrahim. "Adopting Strategies for the Speedy Dispensation of Corruption Cases: The Economic and Financial Crime Commission's Position." In *Nigerian Bar Association Annual General Conference, 24th August 2015*,. Abuja, 2015.

Theses:

Ebuara, J. U. "Victims of Crime under Nigerian Law: An Appraisal." University of Jos, 2002.

Books:

Hazard, Geoffrey C., and Angelo Dondi. *Legal Ethics: A Comparative Study*. Stanford University Press, 2004. [View Item](#)

Horrigan, Bryan. *Adventures in Law and Justice: Exploring Big Legal Questions in Everyday Life*. UNSW Press, 2003. [View Item](#)

Roth, Andrew, Jonathan P. Roth, and Barbara Kate Repa. *Devil's Advocates: The Unnatural*

History of Lawyers. Berkeley: CA: Nolo Press, 1989. [View Item](#)

Legal Documents:

Economic and Financial Crimes Commission, Federal High Court of Nigeria, Suit No. FHC/KD/CS/110/2006

Godwin Josiah v. The State (1985) 1 NWLR 125.

The Constitution of the federal Republic of Nigeria 1999

Newspaper

“23rd February, 2016.” *Premium Times*, February 23, 2016.

“419 of Friday September 3.” *The Guardian* 21, no. 9 (2004): 1–2.

“Corrupt Persons in Legislature, Judiciary–Osibanjo.” *The Punch Newspaper*, February 22, 2016.

“Dasukigate: ‘Who Got What’ from \$2.1bn Arms Deal?” *P.M. News*, 2016. [View Item](#)

“Friday September 16.” *This Day Newspaper* 11, no. 3799 (2005): 1.

Internet Reference

Commission, Financial Crimes. “Corruption on Trial?The Record of Nigeria’s Economic and Financial Crimes Commission.” August, New York, 2011. [View Item](#)

Folarin, Sherriff. “Corruption, Politics and Governance in Nigeria,” n.d. [View Item](#)

