

Emerging Trends in Judicial Corruption in Nigeria

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Abstract: *This paper examines judicial corruption in Nigeria. It analyses what constitutes judicial corruption and its manifestations. It treated the causes of judicial corruption in Nigeria and gave insight to the effects of judicial corruption in Nigeria. It concludes that there is need for an upright and a forthright judiciary in Nigeria to enhance sustainable development goals and reduce the effect of corruption in Nigeria.*

Keywords: corruption, appointment, judicial officers, bribery, extortion, abuse of office, giving, receiving.

INTRODUCTION

Corruption has long been with mankind as long as power has existed. However, the length of time corruption has been with mankind does not make it acceptable.¹ Corruption occurs at any level of society and it is a global phenomenon. Corruption has become one of the greatest challenges to Nigeria in particular and Africa as whole. Corruption is prevalent in every aspect of the Nigerian society.² The problem of corruption has been identified as the bane of constitutional governance and sustained economic progress in Nigeria. The unfortunate thing about corruption in Nigeria is that since attainment of

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¹ AT Akujobi., 'Perspective on Corruption and Its Control in Nigeria' in DC Maidoh, and others (eds), *Judicial Administration and Other Legal Issues in Nigeria: Essays in the Honour of Honourable Justice R.P.I. Bozimo, Chief Judge of Delta State* (Malthouse Press Limited, 2000) 157.

² M Uzochukwu, "Corruption in Nigeria: Review, Causes Effects and Solutions" <<https://www.soapboxie.com/world-politics/corruption-in-nigeria.htm/>> accessed 12 February, 2018.

independence, it has enjoyed accelerated growth. As a result, it has become a cankerworm attaining the status of an epidemic in the Nigerian society.³

Nigeria has been consistently ranked high in corruption by Transparency International and other notable organizations that monitor corrupt practices globally.⁴ In 2015, Nigeria was ranked the 136th least corrupt nation out of 175 countries and in 2018, Nigeria was rated 144 most corrupt country globally.⁵ Similarly in 2020, Nigeria was rated 149th most corrupt nation in the world out of 180 countries.⁶ Corruption is a factor that easily destroys the socio-political and socio-legal system of a country. It leads to failure of justice.⁷ It undermines the independence of the judiciary because a corrupt judicial officer has no conscience.

Judicial corruption is any form of improper conduct by a judicial officer in his official capacity for a private gain. Over 150 years ago, the Turkish law courts were so immersed in corruption through bribery to the extent that the laws were interpreted and administered to the detriment of the lives and properties of the citizens.⁸ However in England, bribery was proscribed. It was a serious offence for a judicial officer or any person who is involved in the administration of justice to accept undue reward to influence his conduct in the discharge of his official function.⁹ Judicial corruption is perceived to be high and widespread in countries such as Afghanistan, Bolivia, Bulgaria, Cambodia, Croatia, Ethiopia, Morocco, Peru and Ukraine with negative effect and implication on the citizenry.¹⁰

In Nigeria, corruption became associated with the judiciary in the early 1970s. This was the period of the oil boom and the public service became tainted with corruption.¹¹ When Murtala Muhammed toppled Gowon's administration in February, 1975, he embarked on a cleansing of the public service. On August 20, 1975, Murtala's administration announced the removal of T.O. Elias as Chief Justice of Nigeria.¹² Although Elias was not openly accused of judicial corruption, the administration found that Elias, in his capacity as CJN, constituted a panel of the Supreme Court judges to hear an appeal in respect of a land matter in which his brother was a party and he presided over the matter. The appeal was decided in favour of his brother. The government felt that was improper and offensive to public morality.¹³ The government

³ Akujobi, n.1 above.

⁴ Uzochukwu, n. 2 above.

⁵ *Ibid.*

⁶ Transparency International, 'Corruption Perceptions Index 2020 For Nigeria' <<https://www.transparency.org/nga>> accessed 3 June, 2024. See also I Nnochiri, 'Nigeria Moves 4 Places Up in Global Corruption Index, Ranks 150' <<https://www.vangaurdr.com/nig...>> accessed 30 October, 2023 in which it was reported that in 2022, Nigeria ranked 150 most corrupt country in the world.

⁷ G Ibenegbu, "Top Reasons of Corruption in Nigeria" <<https://www.google.com.ng/amp/1105454-effect-corruption-nigeria.html>> accessed 12 February, 2024.

⁸ W Prest, "Judicial Corruption in Early Modern England" <<https://www.jstor.org/stable/650767>> accessed 4 June, 2025.

⁹ *Ibid.*

¹⁰ S Gloppen, "Courts, Corruption and Judicial Independence" <<https://www.cmi.no/file/5...>> accessed 4 June, 2024.

¹¹ B Abidoye, "How Murtala Sacked, Compensated Chief Justice Teslim Olawale Elias" <<https://www.premiumtimesng.com>> accessed 4 June, 2024.

¹² *Ibid.*

¹³ *Ibid.*

claimed that Elias' management competence and integrity to preside over the judiciary has been called to question because there was apparent muddle, confusion and ineptitude in the judiciary under his watch.¹⁴ T.O. Elias became the first Chief Justice of Nigeria to be removed from office until very recently when Walter Onnoghen was also removed from office as Chief Justice of Nigeria. It is argued that judicial corruption grew gradually from that time to become a monster to be tackled in Nigeria. This article therefore examines judicial corruption in Nigeria. It also analyses what constitutes judicial corruption and its effect in Nigeria.

Meaning of Corruption

Corruption has imprecise definition because there is no universally acceptable definition of corruption. Therefore, to ascribe to it a precise definition has prompted some difficulty.¹⁵ However, attempt shall be made to define the word 'corruption.' According to Akujobi, corruption is any dishonest and illegal practice which undermines one's integrity. It is an act done with intent to give some advantage inconsistent with official duty and the rights of others to someone else. Corruption is the act of an official or fiduciary person, who wrongfully uses his status or character to procure some benefits for himself or for another person contrary to his duty and the right of others.¹⁶ In defining the word 'corruptly' in *Biobaku v. Police*,¹⁷ Bairamian, J. (as he then was) stated that it is 'receiving or offering of some benefits as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his duties.'

It is incontrovertible that corruption is a dishonest and illegal conduct exhibited by a person in authority and parties with whom he interacts for a private or personal gain. It is the abuse or misuse of power or positions of trust for a personal benefit whether pecuniary or otherwise. Corruption is all forms of improper motivation in any capacity particularly as a public officer or public servant. From this perspective, therefore, section 2 of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act defines corruption to include bribery, fraud and other related offences. Corruption normally involves more than one party. It takes the form of an organized crime.¹⁸ Corruption in Nigeria is a problem of routine deviation from established standards and norms by public servants in order to gain private advantage at the peril of societal good.¹⁹

The point must be made that irrespective of any definition that may have been ascribed to corruption, it must be noted that corruption is not limited to only financial or pecuniary gain or benefit but include any unhealthy or illegal acts such as sexual favour, tribalism, nepotism, lack of merit, incompetence, sabotage,

¹⁴ *Ibid.*

¹⁵ Akujobi, n.1 above at 158.

¹⁶ *Ibid.*

¹⁷ (1951) NLR 30.

¹⁸ OO Ayobami, "Corruption Eradication in Nigeria: An Appraisal" <<https://www.webpages.vidaho.edu/~amobolin/ayobami.htm>> accessed 12 February, 2018.

¹⁹ *Ibid.*

et cetera.²⁰ Corruption demonstrates that aspect of human conduct which is adjudged as obnoxious, degrading, odious and offensive to acceptable norms of human society and contrary to set rules and laws.²¹

Judicial Corruption and its Perception in Nigeria

Corruption has eaten so deep that the Nigerian judiciary is not an exception. It was observed that judicial corruption is as old as prostitution. Hence, Deuteronomy²² Chapter 16:18 – 20 says:

Appoint judges and other official in every town that the Lord your God gives you. These men are to judge the people impartially. They are not to be unjust or show impartiality in their judgments; and they are not to accept bribes, for gifts blind the eyes even of the wise and honest men, and cause them to give wrong decisions. Always be fair and just, do that you will occupy the land that the Lord your God is giving you and will continue to live there.

Similarly in the Holy Quran in Surat Nisaa Chapter IV verse 135, it was revealed to the Holy Prophet (SAW) as follows:

O you who believe! Stand out firmly for justice, as witnesses to Allah, even though it be against yourselves, or your parents, or your kin, be he rich or poor, Allah is a Better Protector to both. So follow not the lusts, lest you avoid justice; and if you distort your witness or refuse to give it, Allah is ever well ... acquainted with what you do.

As can be seen from above, the two Holy Books demand that judicial officers should abstain from perverting the course of justice, showing impartiality, accepting or taking bribe and subverting the course of righteousness.²³ Deducible is that Judges are required to engage in certain acts and also required to abstain from some. However, the problem lies in the will, the innate ability or the conscience and courage to avoid such conducts that are not permissible or outlawed and to do what is right at all time as a judicial officer.²⁴

Section 98A – D of the Criminal Code Act²⁵ applies to a judicial officer in the same way it applies to a public officer in Nigeria. This argument is founded on the provisions of section 98D of the CCA which defines public official in section 98 to 98B to mean any person employed in the public service and in the context of that expression as defined in section 1(1) or any judicial officer within the meaning of section 98C of the Criminal Code.

²⁰ Akujobi, n. 15 above.

²¹ *Ibid.* at 159.

²² Goodnews Bible with Deuterocanonical Books/Apocrypha.

²³ IA Salami, “Eradicating Corruption in Nigerian Judiciary” <<https://saharareporters.com/2015/12/04/eradicating-corruption-in-nigerian-judiciary.htm/>> accessed 9 December, 2024.

²⁴ *Ibid.*

²⁵ Criminal Code Act, Cap. C38, L.F.N., 2004 hereinafter referred to as “CCA.”

Section 1(1) of the CCA defines a judicial officer to include the Chief Judge and a Judge of the High Court, a Magistrate, the President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court, the Chief Justice of Nigeria and Justices of the Supreme Court. It also includes any one engaged in any judicial act or proceeding or inquiry and an administrative officer. Section 98C(3) of the CCA further expanded the definition given to judicial officers in section 1(1) of the Act to include members of a customary court, juvenile court, arbitrators, umpires or referees, assessors in any civil or criminal proceedings. It also include members of a jury, members of a tribunal of inquiry constituted under the Tribunal of Inquiry Act and any person before whom, under any law in force in Nigeria proceedings may be held and evidence taken on oath.

Judicial corruption therefore involves corruptly demanding or receiving benefit, advantage, property or something on account of anything done or omitted to be done by a judicial officer in his judicial capacity. As the concept implies, the offence must involve a judicial officer as defined in the CCA.²⁶ The punishment for judicial corruption as provided in the present provisions of the Criminal Code is seven years imprisonment.²⁷

It is argued that a judiciary that is tainted with corruption will lose public confidence and lack elements that constitute an effective judicial system such as predictable judicial discretion applied to matters of judicial discretion.²⁸ In 2015, the Chief Justice of Nigeria stated that 1020 judges of superior courts were under investigation by the National Judicial Council and no fewer than 64 of them have been sanctioned for judicial corruption, misconduct and malpractices.²⁹ That was not a good image for the Nigerian judiciary. Corrupt practices by judicial officers include acceptance of bribes, bias in favour of a party to a judicial proceeding, unjust exclusion or admission of evidence with the aim of justifying an otherwise perverse judgment, accepting sexual favours, undue influence on judicial rulings and judgments and even incompetence³⁰ with grave consequence to the society. Judicial corruption is not limited to taking of bribe but includes the giving of judgments or orders based on any consideration other than legal merit.³¹ Walter Onnoghen, CJN as he then was, admonished while speaking on the need for judicial officers to always live above board that judicial corruption should not be seen only as an act of taking bribe but every other action a judge takes to pervert justice amounts to judicial corruption. He added that a corrupt judge is not only a disgrace to the bench and the noble profession but a disaster to the course of justice and the nation. Corruption in the judiciary also accounts for some inconsistency in judicial decisions or judgments especially where judicial officers seek to protect their interests or are induced to protect the interest of other people.³² It is argued that whatever the manifestation of judicial corruption may take, it is clear that

²⁶ CC Wigwe, Introduction to Criminal Law in Nigeria (Mountcrest University Press, 2016) 304.

²⁷ Sections 98(1) and 98A(1) of the CCA, Cap. C38, LFN, 2004.

²⁸ AS Awomolo, *Imperative of Judicial Reforms in Ensuring Good Governance and Accountability in Nigeria* (NIALS Press, 2016) 25.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ A Enumah, , "CJN: A Corrupt Judge is a Disaster to the Nation" *Vanguard* (Abuja 20 March, 2018) 5.

³² Awomolo, n. 28 above at 26.

it undermines the effectiveness of the judicial system and poses serious threat to the independence of the judiciary, good governance and acceptable norms of society.

Judicial corruption perception in Nigeria is higher when compared to jurisdiction such as the United Kingdom. This is obviously manifest from the type of judgments that emanate from the Nigerian courts in corruption related cases. In the ex-convict case involving James Onanefe Ibori in which an Upper Area Court, Bwari convicted James Onanefe Ibori on 28 September, 1995, no court up to the Supreme Court of Nigeria could identify James Onanefe Ibori as the convict³³ but the English courts never had such challenges when the same James Ibori was tried in London over fraud and money laundering charges and was convicted. Similarly, Chief James Ibori and others were arraigned on a 170 count charge before the Federal High Court, Asaba for corrupt practices involving money laundering, fraud among others presided over by Honourable Justice Awokulehin. The trial judge quashed the entire charge, discharged and acquitted them. On appeal, the Court of Appeal set aside the ruling and remitted the case back for a retrial.³⁴ Later, James Ibori absconded to Dubai to avoid the retrial. He was arrested in Dubai and extradited to the United Kingdom. It did not take the UK court so much time to find James Ibori guilty of money laundering and fraud. He was sentenced to 13 years imprisonment.³⁵ James Ibori has since returned to Nigeria. The EFCC and the relevant agencies have turned blind eye to the charges against him.

Also, in *George v. F.R.N.*,³⁶ the appellant was arraigned for contract splitting, exceeding the limit set in the exercise of their authority to award contracts and inflation of contract amounts. The appellant was the Chairman of the Board of the Nigerian Ports Authority between 2001 and 2003. He was convicted by the High Court of Lagos on the charges against him. The conviction was affirmed by the Court of Appeal. However, on appeal to the Supreme Court, the conviction was set aside and the appellant was discharged and acquitted on the ground that contract splitting is unknown to law. It is argued that the alleged offences for which the appellant and others stood trial were rooted in fraud and corrupt practices. The reason is that the splitting of contracts and inflation of contract sums constitute fraud and corrupt practice which the Supreme Court ought to have considered. It is, therefore safe to state that comparing the decisions of the Nigerian courts to the United Kingdom, judicial corruption perception is higher in Nigeria.

Forms of Judicial Corruption in Nigeria

Official Corruption

Official corruption is common in the public life of the Nigerian society. From the public service to the private sector, there is one form of official corruption or the other. Official corruption includes bribery, extortion, favouritism and sexual demands in abuse of office or fiduciary relationship by a judicial officer

³³ *Ibori v. Agbi and others* (2004) LPELR – 1402 (SC) 1 at 91 - 97 where the Supreme Court held that one James Onanefe Ibori was convicted on the face of Exhibit A (the order of the Upper Area Court, Bwari dated 28/9/95) but remitted the case to the High Court for trial *de novo* to identify the James Onanefe Ibori that was convicted in Exhibit A.

³⁴ *F.R.N. v. Ibori* (2014) LPELR – 23214 (CA) 1.

³⁵ T Mark, 'Former Nigeria State Governor, James Ibori Receives 13-year Sentence' <<http://www.theguardian.com>> accessed 21 May, 2021.

³⁶ (2013) LPELR - 21895 (SC) 1 at 18 - 19.

or a public officer. In bribery, it injures the commonwealth and not the giver of the bribe whereas extortion injures the individual who is made to yield to give it.³⁷ It is made an offence for the protection of the society and not for the protection of persons who pay the bribe or who yield to the extortion.³⁸ In the case of extortion, the judicial officer or the public officer uses his office as a means to extract the benefit. In this case, the giver is most times a victim because the benefit or consideration is not usually given willingly to the receiver. However, in the case of bribery, the giver is usually a party and an accomplice.³⁹

Bribery

By the provisions of section 98(1)(a) and (b) the Criminal Code Act,⁴⁰ any public officer (as defined in section 98D) who corruptly asks for, receives or obtains any property or benefit of any kind for himself or any other person or corruptly agrees or attempts to receive or obtain any property or benefit for himself or any other person to give favour in the discharge of his official duty in connection with his duties as a public officer is a guilty of official corruption and he is liable to imprisonment for seven years. Under the offence of bribery, both the giver and the receiver are culpable under the section.⁴¹ The receiver of the bribe must be a person in the public service and the offence must involve the act of corruptly giving of a benefit of any kind or a promise to do so on account of a favour from a public officer.

Some corrupt judicial officers engaged in taking of bribe either through their court staff or through legal practitioners involved in the cases before them. Some are even influenced by their fellow judicial officers to influence the outcome of the case in favour of the giver of the bribe. This act undermines the integrity of the judiciary because it makes the public to erroneously believe that justice is for sale.

Extortion

Under the offence of bribery, the payment of the benefit in return for the favour to be received or shown is done willingly without any coercion or threat. However, there are situations where a public officer may use the power or influence of his office to take money or such other benefit which ordinarily the giver will not part with if there was no threat on the part of the public officer or if he knew the true facts.⁴² The philosophy behind this section is to condemn the conduct of a public officer who takes advantage of his position to extort money from members of the society because such conduct from a person in position of a public trust is reprehensible. It is meant to instill public confidence in public service and the society.

It is argued that the offence of extortion as it relates to judicial corruption is usually prevalent in criminal justice system where a corrupt judicial officer can even deny a defendant bail even in bailable offences or adjourned an application for bail in simple offences to much later date for consideration or ruling. The

³⁷ Wigwe, n. 26 above.

³⁸ *Osidola v. C.O.P.* [1958] NRNLR 42.

³⁹ CO Okonkwo, and Naish, *Criminal Law in Nigeria* (2nd Edition, University Press Plc, 1988) 356.

⁴⁰ Cap. C38, LFN, 2004.

⁴¹ Wigwe, n. 26 above.

⁴² Okonkwo and Naish, n. 39 above at 368; EO Fakayode, *The Nigerian Criminal Code Companion* (Ethiopia Publishing Corporation, 1977) 90 – 92.

agent of such judicial officer may approach either the defendant or his relatives to meet the terms of the judge or magistrate to enable the defendant regains freedom. Under, extortion, a judicial officer may refuse to exercise his discretion until his demands are meant.

Corruption in the judiciary is not limited to judicial officers. Even judiciary staffs are also involved in corrupt practices in the judiciary. Judiciary staffs make demands for money from lawyers and litigants to perform their duty. In most cases, lawyers and litigants yield to such demands.⁴³ Judiciary staffs extorts money from lawyers and litigants in the guise of buying files for their cases on the ground that no more space to write the endorsement or that the existing file is torn and worn out. Some extort money to look for case files. Some extort money to enroll orders made by the courts. The amount of money being charged by some court staffs on compilation of record of appeals discourages lawyers and litigants from proceeding on appeal to appellate courts.

The law also encourages corruption in the judiciary. An example is the rules of the High Courts. The rules of the High Court particularly the Delta State High Court (Civil Procedure) Rules, 2009 provides that a party desiring or seeking the service or execution of any process shall be responsible for the cost of the service or execution. The bailiff or sheriff shall not be bound to serve or execute any process unless the fees and reasonable expenses thereof must be paid to him⁴⁴ Bailiffs of the courts take advantage of this provision to extort money from lawyers and litigants to have their processes served or executed. The rule did not provide for the cost to be paid to the bailiff. The rule did not also define the phrase '*reasonable expenses*.' A bailiff can charge and collect ₦200,000.00 or above to leave Delta State to effect serve of court process or processes in Abuja or Lagos depending on the ability of the lawyer or the litigant to pay. The fees and the reasonable expenses for the service or execution must be paid to the bailiff or sheriff before he embarks on the service or execution. In other words, where a litigant or a lawyer fails to give money to bailiff or sheriff to have his processes served or executed, the bailiff or the sheriff has the right not to effect the service or the execution of the process. In other words, judiciary staffs are by the law encouraged to engage in extortion because the cost and reasonable expenses is not willingly given by the litigant or the lawyer. Judicial corruption poses a serious problem in Nigeria.

Abuse of Office

Abuse of office is an offence under the Criminal Code Act.⁴⁵ Any person who being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanor and he is liable to imprisonment for two years. The essence is to preserve the dignity, confidence and trust of public office by public servants or officials. It is argued that the offence of bribery and extortion are also part of abuse of offence. A judicial

⁴³ J Onyekwere, 'ICPC Corruption Verdict Unsettles Judiciary' <<https://www.theguardian.ng>> accessed 10 December, 2024.

⁴⁴ Order 7 Rule 15 of the Delta State High Court (Civil Procedure) Rules, 2009. Order 6 Rule 28 of the Federal High Court (Civil Procedure) Rules, 2019 and Order 7 Rule 12 of the National Industrial Court of Nigeria (Civil Procedure) Rules, 2017 also has similar provisions.

⁴⁵ Section 104, Criminal Code Act, Cap, C38, LFN, 2004.

officer that exhibits bias has abused his office. The acts of judiciary staff in extorting money from lawyers and litigants as discussed under extortion above also constitute abuse of office.

Causes of Judicial Corruption in Nigeria

Generally, like corruption in other sectors of public service, a number of factors could be responsible for judicial corruption in Nigeria. Prominent among them are:

i. **Nomination or appointment process of judicial officers:** A judicial officer must possess sufficient knowledge of the law, if not, he becomes a calamity to the society and clog to the administration of justice. This is expressed in the maxim '*ignorantia judicis est calamitas innocentis*' which means that the ignorance of the judge is the calamity of the innocent. It is therefore argued that the qualification for appointment for judges to the various courts as provided by the 1999 Constitution (hereinafter referred to as the Constitution) to wit: 10 years for the Federal High Court, National Industrial Court, High Courts, Sharia Court of Appeal and Customary Court of Appeal, 12 years for Court of Appeal and 15 years for Supreme Court without more is not sufficient.⁴⁶ These provisions should be amended particularly for the Federal High Courts, National Industrial Court, High Court of the States, Sharia Court of Appeal and Customary Court of Appeal to include substantial evidence of practice of law with good number of judgments obtained in contested cases over a considerable length of time. This will ensure sufficient knowledge and competence on the part of the judge – applicant.

Also, the constitutional provisions on appointment of judges as provided in the 1999 Constitution promotes and encourages appointment of person without merit and appreciable knowledge of the law coupled with the issue of quota system or federal character contained in section 14(3) and (4) of the 1999 Constitution which is could be seen as a promoter of appointment of mediocre into the judicial system. For the judicial officers of the inferior courts, the situation is not different. The relevant Magistrate Court Laws, Customary Court Laws, Revenue Court Laws, *et cetera* merely state the required post call qualification without more. This gives room to political consideration in the nomination and appointment processes of judicial officers which also involve intense lobbying by applicants.

The nomination process of judicial officers to the superior courts is not provided for in the Constitution. The Constitution merely empowers the Judicial Service Commission to advise the National Judicial Council on suitable persons for nomination to judicial position listed in the Constitution.⁴⁷ In practice, the Chief Judges merely direct their brother judges to recommend persons for appointment as judges. The Chief Justice of Nigeria and the Chief Judges of the various States are so powerful in the appointment process of judicial officers in Nigeria. The Chief Justice of Nigeria and the Chief Judges of the various States are not bound by the recommendations of their brother judges. This, in turn results to intense lobbying and regards to political intervention from politicians. Where a man lobbied his way to become a judge whether through the members of the executive, the legislature or the judiciary, he cannot be

⁴⁶ Sections 231(3), 238(3), 250(3), 254B(3), 256(3), 261(3), 266(3); 271(3), 276(3) and 281(3), CFRN, 1999, (as amended).

⁴⁷ Paragraph 12, item E, Part I, Third Schedule, paragraph 5, Item C, Part II, Third Schedule and paragraph 1, Part III, Third Schedule, 1999 Constitution, (as amended).

independent when his benefactor request for favour or indicate interest in a matter before him as a judge.⁴⁸ In other words, a flawed nomination or appointment process of judicial officers will ultimately result in judicial corruption and affects sustainable development.

ii. **Process of appointment of heads of court:** The Constitution does not provide for the process of appointment for the various heads of courts in Nigeria. The Constitution merely provides the post call years as a pre-condition for appointment as judicial officers of the various courts listed in section 6(5) of the 1999 Constitution and no more. Specifically, section 231(3) of the 1999 Constitution stipulates 15 years post call as a prerequisite to be appointed Chief Justice of Nigeria or a Justice of the Supreme Court. The Constitution fails to provide specific requirement or process to select and appoint the Chief Justice of Nigeria from among the Justices of the Supreme Court. Curiously, however, the Constitution recognizes that the most senior Justice of the Supreme Court should be appointed to perform the functions of the Chief Justice of Nigeria when the office is vacant or the person holding the office is unable to perform the functions of the office. With respect to the Court of Appeal, the 1999 Constitution did not stipulate post call requirement for the President of the Court of Appeal but merely provides 12 years post call as a prerequisite to be appointed a Justice of the Court of Appeal.⁴⁹ The Constitution did not also provide further requirement for the appointment of the President of the Court of Appeal. However, it also recognizes the most senior Justice of the Court for acting capacity in the event that the person holding the office of the President of the Court of Appeal is unable to discharge the functions of the office or when the office is vacant.⁵⁰ This obvious lacunae also affects the office of the Chief Judge of the Federal High Court,⁵¹ President of the National Industrial Court,⁵² Chief Judge of the High Court of the Federal Capital Territory,⁵³ Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory,⁵⁴ President of the Customary Court of Appeal of the Federal Capital Territory,⁵⁵ Chief Judge of the State High Court,⁵⁶ Grand Kadi of the State Sharia Court of Appeal⁵⁷ and President of the Customary Court of Appeal of the State.⁵⁸ With respect to each of these judicial offices, the Constitution recognizes the most senior Judge for acting capacity in the event that the person holding the office as the head of the court is unable to discharge the functions of the office or the office is vacant. It is argued that this patent lacuna is deliberate by the drafters of the Constitution for political considerations in the appointment of the heads of the various courts in Nigeria by the executive for political interest and advantage. This obvious lacuna can make an overbearing President or Governor to appoint even the most junior judge as head of a court over his seniors and there will be no unconstitutionality in such exercise of power. It is the President or the Governor that makes the appointment even though the nomination is from the NJC. This omission in the

⁴⁸ PAO Oluyede, *Constitutional Law in Nigeria* (Evans Brothers (Nigeria Publishers) Ltd.) 286.

⁴⁹ Section 238(3), CFRN, 1999, (as amended).

⁵⁰ *Ibid.* Section 238(4).

⁵¹ *Ibid.* Section 250(3).

⁵² *Ibid.* Section 254B(3).

⁵³ *Ibid.* Section 256(3).

⁵⁴ *Ibid.* Section 261(3).

⁵⁵ *Ibid.* Section 265(3).

⁵⁶ *Ibid.* Section 271(3).

⁵⁷ *Ibid.* Section 276(3).

⁵⁸ *Ibid.* Section 281(3).

Constitution can breed judicial corruption. Judicial corruption is not just about collection of bribes or extortion. Abuse of office is judicial corruption. Delivering of judgment on extra – legal consideration other than law is judicial corruption. Favouritism by a judicial officer is judicial corruption. The omission of the specific requirements such as the most senior judicial officer of that court to be the appointed as the head of each court was deliberate. This is so because the drafters of the Constitution recognized seniority when it is in acting capacity. *Ipsa facto*, the Constitution ought to include seniority in the appointment of the head of courts. Therefore, there should be urgent legislative amendment to those provisions relating to appointment of the various heads of courts established in section 6(5) of the Constitution to recognized seniority.

iii. **Government Attitude to Pensioners in Nigeria:** The attitude of the Nigerian government to pensioners is a far cry to what is obtainable in developed countries such as United Kingdom and United States of America where pensioners are actually treated as senior citizens that had made their contribution to national development.⁵⁹ In those climes, pensioners enjoy good medical care and regular pension. In Nigeria, the story is different despite the existence of the Pension Reform Act, 2014. There is no prompt payment of pension in Nigeria. In some case, some of these pensioners do not have personal houses. Hence, some public servants had the temerity to use all available means to acquire wealth to face life after retirement from public service. The Chief Justice of Nigeria, Honourable Justice Ibrahim Tanko Muhammad made the point when he said that government should make effort to work out measure to improve the welfare of judicial officers especially after retirement.⁶⁰ The objective of the Pension Reform Act is to ensure that every person who worked in the public service receives his retirement benefit as and when due.⁶¹ By section 4 of the Act, public servants are made to pay not less than eight percent of their monthly emoluments to the contributory pension scheme except the categories of workers exempted by section 5 of the Act or those covered by the Universities (Miscellaneous Provisions) (Amendment) Act, 2012. By the provisions of sections 7 and 16 of the Pension Reform Act, a holder of a retirement savings account shall upon retirement or attainment of 50 years, whichever is later, utilized the amount credited to his retirement savings account for his benefit. Every employee is expected to maintain a retirement savings account with a Pension Fund Administrator into which his contributory pension shall be paid.⁶² The employer is also expected to pay the employee's contribution deductible from the employee's salary and the share of the employer's contribution of the employee's pension into that account.⁶³ It is observed that government is not committed to the plight of pensioners in Nigeria hence pensioners do not receive their pension benefits as and when due in spite of the noble provisions of the Pension Reform Act.

iv. **Poverty:** Sometimes poverty induced corruption. Poverty induced corruption often occurs when the basic need of man has not been met. In that circumstance, the poorly remunerated public servant becomes desperate and engages in corrupt practices including bribery, extortion, abuse of office, *et cetera*.

⁵⁹ Nigerian Finder, "Top 5 Causes of Corruption in Nigeria" <<https://www.nigerianfinder.com/causes-of-corruption-nigeria/amp/>> accessed 12 February, 2018.

⁶⁰ I Nnochiri, "Judiciary Not Free. We Beg. For Funds, CJN Laments" *Vanguard* (Abuja, 24 September, 2019) 8.

⁶¹ Section 1(c), Pension Reform Act, 2014, Act No. 4.

⁶² Section 11, Pension Reform Act, 2014.

⁶³ *Ibid*.

Poor remuneration breeds unsatisfied workers.⁶⁴ It is argued that this may lead unsatisfied workers to become easily swayed and engaged in corrupt practices to meet their needs. This can be controlled if the entire workers remuneration is reviewed to meet the prevailing circumstances of standard of living.⁶⁵ The National Minimum Wage Act, 2024 put the least paid worker at ₦70,000.00 per month subject to statutory deductions.⁶⁶ However, the Act is not applicable to an establishment with less than 25 persons or in which the workers are employed or paid on part –time, by commission or piece – rate or workers in seasonal employment.⁶⁷ The approved minimum wage amounts to nothing to a married man who works in the judiciary or other public service with two children. He has to feed his family, pay his rent, pay his children school fees and pay transport to work, amongst others with the attendant daily rising inflation.

There is also lack of incentives and welfare of judicial officers particularly the judicial officers of the inferior courts in Nigeria.⁶⁸ The judicial officers of the inferior courts are poorly remunerated and most of them take public transport to work because there are no cars given to them as part of their incentive. The courts are under – equipped.⁶⁹ This has led to the agitation for the welfare of judicial officers and financial autonomy for the judiciary to enable the judiciary meet the needs and welfare of judicial officers and support staff in Nigeria. This agitation is champion by the Judiciary Staff Union of Nigeria and the Nigerian Bar Association since judicial officers cannot speak for themselves despite the fact that judicial officers have right to freedom of expression.⁷⁰ By their judicial position, judicial officers cannot exercise the right to freedom of expression on any matter outside the courtroom.

v. **Public Perception to Corruption:** The public perception in relation to corruption seems to encourage corruption in the society. There are people who are known to be corrupt yet they are celebrated with titles, awards, honours, promotion, elevation, appointment and highly respected. This sends an underlying message to the populace that corruption is an acceptable norm and culture. Public perception has a large role to shaping the future of corruption in Nigeria. Where the public condemns corruption and reject those with questionable wealth, the individuals who engage in corrupt practices will have a rethink.⁷¹ Article 13 of the United Nations Convention Against Corruption enjoin State Parties to take appropriate measures, within its means and in accordance with the fundamental objectives of its domestic law, to promote the active participation of individuals and groups outside the public sector, in the prevention of and fight against corruption. It also enjoins State Parties to raise awareness regarding the existence, its gravity and the threat posed by corruption. The participation could be strengthened by ensuring that the

⁶⁴ Nigerian Finder, n. 59 above.

⁶⁵ *Ibid.*

⁶⁶ Section 3, National Minimum Wage Act, 2024.

⁶⁷ *Ibid.* Section 4.

⁶⁸ C Unini, 'Fighting Corruption Within the Judiciary Has Raised Issues Surrounding the Welfare of Judges and Magistrates' <<https://www.thenigerialawyer.com>> accessed 10 December, 2024.

⁶⁹ *Ibid.*

⁷⁰ O Adetayo, 'Nigeria's Court Strike Paralyzes Underfunded Justice System' <<https://www.theguardian.com>> accessed 10 December, 2024.

⁷¹ Nigerian Finder, n. 59 above.

public have access to information and engaging in public enlightenment as to non-tolerance of corruption in schools and communities.

It is also instructive that section 19(5) of the EFCC Act imposes on an accused person the burden of proving his innocent as against the general position of the law that an accused person is deemed to be innocent until he is proven guilty. The Supreme Court gave approval to the above provision in the case of *Daudu v. FRN*.⁷² The Supreme Court was of the view that proving money laundering case is a herculean task because it requires a prior establishment of the predicate offence before the money laundering aspect can be established. To obviate this problem, a remedy was introduced by statutorily inferring money laundering from not only the conduct of the defendant but his life style which is similar to the proceeds of Crime Act, 2002 of the United Kingdom. Even though section 36(5) of the Constitution provides that every person charged with a criminal offence shall be presumed to be innocent until he is proven guilty, the proviso allows for shifting the burden of proof on the defendant. Therefore, the EFCC Act is adequate to deal with issues of corruption and corrupt persons in the society. However, there is a societal challenge or apathy of not reporting persons who are known to be living above their income or known source of earning to the appropriate authority by the citizens for investigation and prosecution.

Without any prevarication, no matter the reasons for corruption, it is unacceptable and condemnable because corruption has grave effect on the society than good. It is antithetical to sustainable national development.

Effects of Judicial Corruption

Judicial corruption has negative effect on the legal system. It distorts and reduces investment and revenue by investors because no investor will readily establish any business in a country with corrupt judicial officers thereby adversely affecting the economy. Once the judiciary is tainted with corrupt practices, investors usually lose confidence in the economy thereby affecting the wellbeing of the nation. Judicial corruption affects the quality of justice system. Judicial corruption makes judicial decisions unpredictable and uncertain. It reduces the public trust in the justice system. It also impairs the capacity of the judiciary to guarantee the protection of human rights. It adversely affects the administration of justice.⁷³

Judicial corruption impairs equitable dispute resolution. It makes the judicial officer to be blind to the concept of justice in the adjudication process. It makes the injured or person wronged to be without remedy against the principle of *ubi jus, ibi remedium*⁷⁴ which means that where there is a wrong, there is a right or remedy. Judicial corruption is a hindrance to the fight against trans-border crime. It makes the effort at combating transnational crime impossible. Judicial corruption reduces economic and human development.

⁷⁵ It leads to loss of integrity in the judicial system. Where there is loss of integrity in the judicial system,

⁷² (2018) LPELR – 43637 (SC) 1.

⁷³ D Garcia-Sayan, 'Corruption, Human Rights and Judicial Independence' <<https://www.unodc.org>> accessed 12 December, 2024.

⁷⁴ A Hammad, 'Corruption Within the Nigerian Judiciary: Causes and Solutions'<<https://www.nigerianbar.com>> accessed 31 May, 2025.

⁷⁵ *Ibid.*

investors will be wary to invest in the economy. This will ultimately leads to a weak economy and sustainable development.⁷⁶

Judicial corruption breeds poverty and inequality. Corruption redistributes the commonwealth to the least needy sources. In a society in which corruption exists, there is a state of unequal opportunity in which advantages arise only for those within the corrupt network.⁷⁷ It undermines sustainable development goals. A better and more sustainable future for all can be impeded by corruption because sustainable development can be derailed by any form of corruption. It is the aim of sustainable development goal to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and encompassing institutions at all level. Considering the nexus between corruption and institutions that are not strong, ineffective, unaccountable and exclusive, corruption undermines sustainable development goals in developing countries such as Nigeria.⁷⁸ Hence, it is the target of sustainable development goal to pursue the attainment of reduction of all forms of corruption (judicial corruption inclusive), strengthen the recovery and return stolen assets and develop transparent institutions. In essence, corruption limit the realization of sustainable development goal in various aspects as the huge sum of money lost through corruption can be used to improve the living standard of the people through housing, health, education and provision of other amenities.⁷⁹ It leads to failure of infrastructures. There is dearth of infrastructures in Nigeria due to corruption. Existing infrastructures have deteriorated without replacement. There is no provision of modern court - room buildings and gadgets for the judiciary especially the State judiciaries in Nigeria.

Judicial corruption encourages impunity and injustice. When corruption is prevalent in the justice system, the citizens can no longer rely or trust the judiciary staff, prosecutors and judicial officers to dispense justice without fear or favour. The powerful may escape justice while the common man may be unfairly accused of crime, deprived of due process and wrongly convicted and imprisoned.⁸⁰ This ultimately can lead to human rights violation and loss of trust in the judicial system.

Akin to the above is the fact that judicial corruption can lead to self – help, armed conflict and other atrocities. Where the citizens no longer have confidence or trust in the judicial system, they may no longer be interested in the use of the court or judicial means in dispute resolution. Rather, citizens may resort to the use of self – help, armed conflict and other crude and uncivilized means to seek redress which is not good for a democratic society like Nigeria.

⁷⁶ *Ibid.*

⁷⁷ UNODC, ‘Anti-Corruption Module 1 Key Issues: Effects of Corruption’ <[https://www.unodc.org/effects of...](https://www.unodc.org/effects_of...)> accessed 31 May, 2024.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

CONCLUSION

The appointment and elevation of judicial officers should be made public and the public should be given the opportunity to disclose any necessary information about the persons nominated for such appointment or elevation. This will ensure that only persons of impeccable character and integrity are appointed as judges or elevated to appellate courts.⁸¹

While judicial officers should exercise their discretionary powers, they should do so in the interest of justice and the fight against corruption. Judicial officers must resist any application that is capable of creating public impression that the judicial authority is being used to shield criminality or corruption. It is only an upright and forthright judiciary that can ensure sustainable development goals and reduces the effect of corruption in any nation including Nigeria.

⁸¹ Awomolo, n, 37 above at 41.