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FIGHT BACK, WHO WILL WIN THE WAR: REVIEWING  
PRESIDENT BUHARI ADMINISTRATION'S ANTI-  
CORRUPTION WAR IN NIGERIA

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## WHEN YOU FIGHT CORRUPTION, CORRUPTION WILL FIGHT BACK, WHO WILL WIN THE WAR: REVIEWING PRESIDENT BUHARI ADMINISTRATION'S ANTI-CORRUPTION WAR IN NIGERIA

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### ABSTRACT

**Purpose:** The purpose of this paper was to review the status and/or level of victories and challenges faced by President Muhammadu Buhari government's anti-corruption war in Nigeria.

**Methodology:** The paper adopted doctrinal research method and examined the various anti-corruption policies, legal and regulatory frameworks that have been put in place by President Buhari's administration, to fight against corruption-which phenomenon has been fighting back in various forms.

**Findings:** The paper found that Nigeria, no doubt, has adopted some of the provisions of the International Conventions against Corruption. However, Nigeria has, regrettably and consistently, remained on the negative corruption perception index, regionally and internationally assessed. Nevertheless, the paper found that the administration under President Buhari, has adopted and/or introduced home-grown laudable anti-corruption policies and legal frameworks. These include Treasury Single Account, Whistle-blowing, Code of Conduct Bureau and its Tribunal, and the Nigerian Extractive Industries Transparency Initiative and good Governance Code provisions under CAMA 2020 (as amended) among others, to fight against corruption. This effort has brought a modicum of victories in certain aspects of the corruption war and poor perception index. Equally, the paper discovered that the corruption perceptions of Nigeria as well as numerous write-ups and commentaries about some corruption casualties and finds that opinions of Nigerians are tendentiously divided between and among ethnics, religious and political party lines.

**Unique contribution to practice and policy:** Therefore, the paper recommends, among other things, the federal government of Nigeria should underpin and should enthrone the rule of law and international best practices around anti-corruption policy formulation and enforcement pursuant to non-selective, non-ethnic and/or political bias. Besides, the 1999 Constitution of the Federal Republic of Nigeria (as amended) should be reviewed to disallow persons under corruption investigation from decamping to other political parties until their cases are determined.

**Keywords:** *Corruption, Anti-corruption, Non-selective, Casualties, Regulatory Framework*

## 1. Introduction

Corruption is as old as human existence on planet earth. The phenomenon called corruption has many forms or classifications to wit: supportive corruption; transactional corruption; extortive corruption; traditional and modern corruption; local, national and international corruption; or representational corruption and grand and petty corruption, respectively (<https://www.transparency.com> and Oladele, 2017). However, the term “corruption” is not defined in the global instrument<sup>1</sup> on the fight to prevent and control corruption at international, regional and national levels. Nevertheless, the word corruption as defined by the Transparency International<sup>2</sup> (TI) is “the abuse of entrusted power for private gain”.

According to the Black’s Law Dictionary, (2009) corruption is defined, “as the impairment of public official’s duties by bribery”. Indeed, of these two definitions, the one given by TI looks more encompassing because a look at the said global instrument on anti-corruption fight shows that the preventive measures<sup>3</sup> entitled “preventive anti-corruption policies and practices” covers both public<sup>4</sup> and private<sup>5</sup> sectors, respectively.

However, the word “public officials” used in the Black’s Law Dictionary, is also used in the global instrument, that is, the United Nations Convention Against Corruption (UNCAC) and it denotes “any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; any other person who performs a public function including a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the area of law of that State Party; any other person defined as a ‘public official’ in the domestic law of a State Party.”<sup>6</sup>

The usage of the word “public officials” in the two documents does not connote that private employers and/or employees are within the contemplation or scope of anti-corruption preventive measures, policies and practices as contained in UNCAC. Be that as it may, a further reading of the UNCAC reveals that the purport of this instrument extends to both public and private organisations. Interestingly, the UNCAC allows a State Party to establish specialised authorities<sup>7</sup> through its domestic law to prevent and control corruption in its country. Therefore, the Corruption Practices and Other Related Offence Act<sup>8</sup> enacted in Nigeria defines a related word ‘public officer’ as “a person employed or engaged in any capacity in the public service of the Federation, State or Local Government, public corporations or private company, wholly or jointly floated by any government or its agency including the subsidiary of any such company, whether located within or outside Nigeria and includes judicial officers serving in Magistrate, Area or Customary Courts or Tribunals”.

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<sup>1</sup> United Nations Convention Against Corruption 2003, Chapter 1, Article.

<sup>2</sup> TI was established in 1993 as a non-governmental organisation by Peter Elgen to fight corruption in the world and it is based in Berlin, Germany. See Note 1.

<sup>3</sup> *Supra* Note 1, Chapter 11.

<sup>4</sup> *Ibid* Article 7.

<sup>5</sup> *Ibid* Article 12.

<sup>6</sup> *Ibid* Article 2(a).

<sup>7</sup> *Ibid* Article 36.

<sup>8</sup> No. 5 LFN 2000, S. 2.

This definition is still without shortcoming as it does not bring the private sector into its purview. However, still under this section of this law, another related word ‘an official’ is defined to mean “any director, functionary, officer, agent, servant, privy or employee serving in any capacity or whatsoever in the public service or other public body or in any private organisation, corporate body, political party, institution or other employment, whether under a contract of services or contract for services or otherwise, and whether in an executive capacity or not.” This latter definition of an officer under this law captures the intendment of the UNCAC more fittingly in the anti-graft war in Nigeria.

There is no doubt, however, that corruption is not “a local matter but a transnational issue”.<sup>9</sup> The impacts of corruption affect the big, small, rich, poor, developed and developing countries. Nonetheless, such impacts are more destructive in developing, small and poor countries.<sup>10</sup> The developed, big and rich countries have developed appropriate frameworks and capacities with which to implement and enforce necessary preventive and control measures, policies and practices against corruption in both public and private sectors. This, however, does not mean that corruption has been or can be eradicated in the developed countries. Suffice it to say that great efforts have been made to block foreseeable avenues and tendencies of corruption in such countries. Moreover, based on the provision of UNCAC<sup>11</sup>, corruption cases in places like United States and Europe have had to be settled through the concept of plea bargaining to serve time, cost and several judicial bottlenecks for the benefit of both the state and suspects/defendants.

Indeed, corruption has the potential to and could destroy the fabrics of all arms and tiers of government, including private organisations. In a simple term, corruption is more deadly than Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). Unlike HIV/AIDS, which could be contracted by having personal contact with a carrier either through blood transfusion or use of infested instruments. Corrupt practice by one person or a group of persons could affect a reasonable number of persons in a community or society. This comes with attendant negative socio-economic impacts like poverty, illiteracy, murder, abortion, suicide and technological under-development.

To this end, this paper intends to dwell on the arsenal, that is, government enunciated policies, legal and regulatory frameworks created and used to fight against corruption in Nigeria with a view to determining their capacity and level of compliance with treaty obligation. Also, this paper will assess the nature of casualties, that is, persons arrested and prosecuted and the level or status of victories recorded in the anti-corruption war under President Muhammadu Buhari administration, so far. Also, this paper addresses the “fighting back” capacity of corruption and to make recommendations for reform in existing policy, law, process and practices.

## **2. The Arsenal**

For clarity, the arsenal as used here refers to policies, legislative and institutional frameworks deployed in the war against corruption by the Federal Government of Nigeria. The criminal justice system in Nigeria provided for the prevention and prosecution of criminal offences. (Babalola, 2017) These include corruption<sup>12</sup> and other crimes<sup>13</sup> by different

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<sup>9</sup>*Ibid* Preamble to UNCAC 2003.

<sup>10</sup>*Ibid* See Foreword to UNCAC 2003.

<sup>11</sup>*Ibid* Article 37.

<sup>12</sup>Criminal Code Act, Cap C38 LFN 2004, Chapter 12, Sections 98, 98A, 98B, 98C, 98D, 99, 101 – 111.

institutional bodies.<sup>14</sup>This was before the establishment of the specialised anti-corruption agencies like the Independent Corrupt Practices and Other Related Offences Commission (ICPC)<sup>15</sup> and Economic and Financial Crimes Commission (EFCC),<sup>16</sup> which were established in 2000 and 2003 respectively, to deal with cases of economic and financial crimes, and corruption in Nigeria. Of these two anti-corruption agencies, arguably, it is the ICPC which is statutorily saddled with the functions to prevent, investigate and prosecute corruption related cases – even before such corrupt practices and/or tendencies could take place in any public office.<sup>17</sup> The utility of such proactiveness in anti-corruption fight is the intent to nip in the bud any corrupt tendency before it could blossom. This is in tandem with the extant provisions of the UNCAC.<sup>18</sup>This is not intending to underrate or water down the importance and energetic efforts of personnel of the EFCC in anti-corruption fight against public fund looters in Nigeria. Nevertheless, it is noteworthy to emphasise that EFCC Act as presently enacted does not specifically vest the EFCC hereinafter called the “Commission” with the function to fight corruption. What the Commission could do in this direction is to assist the ICPC with data and information that the Commission may have stumbled on in the course of carrying out its statutory obligation of financial and economic crimes and nothing more. Instructively, the ICPC under its general duty provisions<sup>19</sup>is to advise, monitor and supervise the practices and procedures in public offices with a view to nipping in the bud the likelihood of corruption in such public organizations. Such functions therefore are completely outside EFCC’s mandate. This also makes ICPC a-good ethical behavior moulder, while the EFCC becomes the prosecutor of defiant of ethical behaviour.

The arsenal could be grouped into two to wit: “preventive but non-legislated policies” and “preventive-prosecutory but legislated policies.” The preventive but non-legislated polices include the following:

- (a) Treasury Single Account (TSA): This is a public accounting system using a single account or a set of linked accounts by government to ensure all revenue receipts and payments are done through a Consolidated Revenue Account (CRA) at the Central Bank of Nigeria (CBN). The pilot TSA scheme commenced in 2012 using a unified structure of accounting for 217 Government Ministries, Departments and Agencies (MDAs) for accountability and transparency in public fund management (Udo, 2017). This policy has been adopted from the previous government. The policy has helped the present government to curb hitherto excesses in government income and expenditure in the MDAs.

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<sup>13</sup>See National Drug Law Enforcement Agency (NDLEA) Act 1999, National Agency for Food and Drug Administration and Control (NAFDAC), Cap N1 LFN (2003) 42 WRN, the Nigerian Armed Forces like the Army Air Force and Navy which can prosecute their members pursuant to the Acts establishing them in Nigeria. See *FRN V. Osahon* (2006) 24 WRN 1 at pp. 18 – 19 and see Note 15 *supra*.

<sup>14</sup>*Ibid.* Also, see the Police Act Cap P. 19 LFN 2004. Section 4 and Section 174(1) and 211(1) of the Constitution Cap C23 LFN 2004 as well as Code of Conduct Bureau and Tribunal Act No. 1 of the 1989 – especially created to deal with complaints of corruption by public servants.

<sup>15</sup>*Supra* Note 8.

<sup>16</sup>Establishment Act of 2003.

<sup>17</sup>*Supra* Note 8, S. (b – e).

<sup>18</sup>Article 5(1 – 3).

<sup>19</sup>*Ibid.* *Infra* EFCC Act S. 5(1) generally deals with Economic and Financial Crimes.

- (b) Whistle Blowing Policy: This is a policy recently announced by the Federal Government of Nigeria that any person who reports an incident of corruption in his or her organization in Nigeria to the appropriate anti-corruption body through dedicated channel of information, would be rewarded with 5% of the recovered fund, if any. This policy is in line with the provision of the UNCAC (Tukur, 2017). The policy has achieved a level of success although it is not backed up by law. However, the policy in recent times has suffered abuse due to administrative red-tapism and counter-claim by whistle blowers themselves as well as the questionable involvement of officials of the agencies in anti-graft cases.

The preventive-prosecutory but legislated policies of anti-corruption include the following:

- (a) Code of Conduct Bureau and Tribunal<sup>20</sup>
- (b) Public Procurement Bureau<sup>21</sup>
- (c) Nigeria Extractive Industries Transparency Initiative (NEITI)<sup>22</sup>
- (d) ICPC<sup>23</sup>
- (e) Oversight functions of the legislatures at Federal and State levels.<sup>24</sup>
- (f) Governance Code<sup>25</sup> - It has been temporarily suspended by the Federal Government of Nigeria because of its perceived far-reaching impacts on the leadership of churches, mosques and other similar or related trusteeships. Recently, the Federal Government has enacted a new Companies and Allied Matters Act (CAMA) and some provisions of this amended legislation seek to enthrone a semblance of good governance practice in trusteeship organizations. These new provisions have pitched the founders and trustees of such incorporated organizations against the Federal Government.

Indeed, the TI was the first international agency which greatly influenced Nigeria's consciousness in anti-corruption fight. Curiously, Nigeria received a damning corruption rating of the TI from 2000. The reports and rating at that time made the Federal Government to join the corruption war. In 2000, President Olusegun Obasanjo decided to establish the ICPC with specific mandate to fight corruption and to prevent its occurrence in public offices in Nigeria. However, this body could not single-handed fight this monster called corruption and other related high profile crimes like economic and financial crimes. Then the Federal Government in its wisdom established the EFCC to tackle economic and financial crimes,

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<sup>20</sup>Act No. 1 of 1989. See 2nd Schedule to this Act and 5th Schedule to the Constitution Cap C23 LFN 2004, pts. I & II respectively. See also UNCAC Article 8.

<sup>21</sup>Act of 4th June, 2007. This is in line with UNCAC's directive in Article 9.

<sup>22</sup>Act of 2007.

<sup>23</sup>Act of 2000.

<sup>24</sup>*Supra* Note 20. Constitution SS 83(2)(b) and 128(2)(b) respectively.

<sup>25</sup>2016 made pursuant to the Financial Reporting Council of Nigeria (FRCN) Act No. 6 of 201 to provide for transparency and succession in Not-For-Profit Organisations (NFPOs) like churches, mosques, educational institutions at all levels, non-governmental organizations (NGOs), among others.

which at the time were the offshoots of petro-dollar resulting in money laundering activities through the banking sector (Raimi, 2003).<sup>26</sup>

The establishment of ICPC and EFCC and other agencies with quasi anti-corruption function greatly improved Nigeria's corruption perception ratings at that time in certain aspects of the public services at Federal, State and Local Governments in Nigeria. (Mike, 2017). Specifically, between 2005 and 2015, EFCC uncovered monumental corruption, economic and financial crimes in the political governance structure, academic institutions, civil service and private enterprises, which involved top officials of such public and private sectors. The anti-corruption agencies successfully prosecuted some of such persons and recovered large sums of the looted funds and assets within and outside Nigeria, pursuant to the provisions of UNCAC<sup>27</sup> - on international cooperation on assets recovery and transfer involving member Parties to the Convention. In doing this, the EFCC in 2005 used the anti-corruption template of plea bargain which has been in existence in the United States and Europe, except in Nigeria. The Commission, for example, used this concept in the prosecution of the former Inspector General of Police (IGP), Tafa Balogun; former Governor of Bayelsa State, D. S. P. Alamiyesiegha; and Cecilia Ibru in corruption related and money laundry offences.

Before now, there has been a stream of arguments by pundits that the interpretation and application of section 14(2) of the Commission's Act as being similar to section 180(1) of the Criminal Procedure Act (CPA) is inconsistent with and does not admit of the concept of plea bargaining as enshrined in the CPA.<sup>28</sup> Nevertheless, the Commission has constantly adopted the concept in concert with the courts. This approach might not have been due to the legality of the concept under EFCC Act but because of the need to frontally fight against corruption. Notably, the use of the concept of plea bargaining is believed to have eased off the usual delay, difficulties, cost and multiple court orders encountered in investigation and prosecution of high profile corruption cases in Nigeria. No doubt, there has also been the opposing view that the use of plea bargaining negates the age-old legal principles of presumption of innocence of an accused and the duty of the prosecution to prove his allegation against an accused beyond reasonable doubt. This is so because plea bargaining centres around negotiated agreement and liability between the defendant and the prosecution.

Be that as it may, this paper does not intend to dwell much on the concept of plea bargaining and the associated arguments for and against it. Suffice it to state that with the creation of plea bargaining provisions in the Administration of Criminal Justice Law (ACJL) of States like Lagos<sup>29</sup> and Anambra<sup>30</sup> among other states in Nigeria and the recent Federal Government's version,<sup>31</sup> the several concerns by stakeholders from different shades of opinions about the legality or otherwise of the concept of plea bargaining in the criminal justice jurisprudence of the country would have been laid to rest in peace.

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<sup>26</sup>Raimi, L., Suara, I. B. & Fadipe, A. O. (2013). Role of Economic and Financial Crimes Commission (EFCC) – Core. *Journal of Business Administration and Education*, Vol. 3, No. 2, pp. 105 – 108.

<sup>27</sup>*Supra* Note/Articles 38, 43, 44, 49, 52, 53, 54, 55 and 56.

<sup>28</sup> Cap C42 LFN 2004.

<sup>29</sup>2007

<sup>30</sup>2010

<sup>31</sup>2015

### 3. The Casualties and Victories

Contextually, the term “casualties” refers to those persons accused of corruption and have been successfully prosecuted or are being prosecuted by the anti-corruption agencies. Also, the word “victories” implies the status or level of success so far, in the fight against corruption.

Consequently, during the 2015 electioneering campaigns and pursuant to the All Progressives Congress Party’s Constitution on corruption fight, President Muhammadu Buhari, made anti-corruption war one of his administration’s agenda. ([www.allprogressivecongress.org](http://www.allprogressivecongress.org)). Upon his election and subsequent swearing-in as President on 29th May, 2015, President Buhari focused on the anti-corruption war by re-jigging the headships of key Federal Government’s anti-corruption agencies to wit: the EFCC; Department of State Security (DSS); Nigeria Customs; Nigeria Immigration and Prisons Services; the Nigerian Ports Authority (NPA); Nigerian Maritime Administration and Safety Agency (NIMASA); Nigerian National Petroleum Corporation (NNPC); Niger Delta Development Commission (NDDC); the Armed Forces Services Chiefs and Nigeria Police Force; among others.

Probably, the manifest intention of such change in headships of these federal agencies might not have been unconnected with the need to bring on board President Buhari party stalwarts, who assisted him to win his election. Also, it appeared the President believed that it was only such party members who could help him to sanitise the “mess in the inherited economy from the 16 years of the PDP’s rule. Without doubt, any change by a new government in headships of government agencies and departments is a normal exercise. However, such changes could become unproductive when the changes result in misalignment of manpower as it has been alleged concerning most of the appointments done by President Buhari since his first term in 2015. ([venturesafrica.com/Buhari’s Cabinet –the--](http://venturesafrica.com/Buhari's%20Cabinet-the--))

Related to such disposition and its trappings is the fact that whenever there is a change in government the world over, there is associated traditional pledge and loyalty by individuals, Ministries, Departments and Agencies (MDAs) of government at different levels of government. Also, the private organizations and indeed, international community usually, too, would pledge similar loyalty to the new government. Indeed, the new administration itself in no mistaken way or posturing expects nothing less. For instance, the EFCC, DSS, ICPC, CCB and CCT have put up usual anti-corruption fight from 29th May, 2015, when Muhammadu Buhari was sworn into office as President – with a promise to fight corruption with all his might and power. This underscores the importance of good leadership and transparency as epitomised in the personality of President Muhammadu Buhari.

Also, a dispassionate look at the list of anti-corruption war casualties so far shows names of renowned party bigwigs of the Peoples Democratic Party (PDP) members, which party used to be at the centre but which is now a major dominant opposition party in Nigeria. A few other casualties are the faithful and/or dissent members of the All Progressives Congress (APC) which party is now the governing party at the national level and in control of 24 States in Nigeria presently. Normally, anti-corruption agencies should act on petitions from aggrieved persons – Nigerians and non-Nigerians alike, about incidents of corruption, economic and financial crimes, which occurred and/or might have occurred in the public and private offices.

Understandably, the PDP members constitute the greater number of casualties. This is justifiably so because their party was in power at the centre and in 28 States from 1999 up and



till May 29, 2015. Therefore, it would have been expected that the majority of the PDP members might have one way or the other soiled their hands in corrupt practices with impunity. (saharareporters.com). This of course, has necessitated the inundated petitions bordering on gross abuse of public trust against a greater number of their party stalwarts and chieftains currently.

Consequently, a plethora of corruption petitions necessitated Federal Government anti-corruption agencies to ferociously beam their searchlights on corruption starting with how the security money approved by the immediate past government for arms purchase, which was allegedly domiciled in the former National Security Adviser's Office (NSA), Col. Sambo Dasuki (Rtd.) was utilised.

First, a probe panel was set up by the Federal Government and its report reveals that the sum of \$2.1 billion was released by the Central Bank of Nigeria (CBN) to former National Security Adviser (NSA) to former President Goodluck Jonathan, Col. Dasuki (Rtd.) for arms purchase but the money was allegedly diverted, used and/or shared among PDP bigwigs and their cohorts as campaign money during the 2015 Presidential elections.

This revelation set the tone for the ongoing investigation, arrests and prosecutions of persons who allegedly benefitted directly or indirectly from such public funds loots. However, the report also shows that some persons connected with the arms purchase funds saga have opted for plea bargain and the EFCC in particular has entered into agreements with them.

These arrangements have resulted in recovery of part of the looted public funds and assets from them. (Ogundepe, 2017). Also, other suspects and/or accused have opted outside the plea bargaining arrangement and they have been arraigned before different courts of law. This has been due to lack of their cooperation with the EFCC. So far, the Commission has secured against some of them interim or final forfeiture orders from the courts respectively (Ogundepe, 2017).

Expectedly, some PDP senators in the Senate of the Federal Republic of Nigeria, have threatened to withdraw their support to President Buhari. These senators have argued that the anti-graft war is targeted at mostly PDP members as a result of the endless arrest of their members on corruption related cases. They have opined that these unlawful arrests are meant to silence members of the main opposition party in Nigeria and to force their members to decamp to APC, to enjoy relative peace and freedom from the ongoing arrests and prosecution of persons on any alleged corrupt practices. (Essien, 2017). The senators of the governing APC have in contrast promptly debunked such allegations of selective arrests and prosecutions of PDP members and their cohorts. Consequently, they have challenged anybody who has petition of gross abuse of public trust against any of their members to forward same to anti-graft agencies. Much as no one would want to subscribe to corrupt practice in any guise, it is desirable and fundamental that in a democracy such as ours, due process should be followed in all anti-graft war, so as to avoid colossal damage being done to the innocent and indeed the institutional framework with which to fight the corruption scourge in any country.

Recently, and by extension, the searchlight of anti-graft war had moved to the judiciary arm. In its wake, some judges, under a sting operation, carried out by men and officers of the DSS, were arrested. These were made to stand trial before various Federal High Courts on charges of corruption. This was consequent to public outcry that the judiciary

is equally engrossed by corruption (Babalola, 2017).<sup>32</sup> The National Judicial Council (NJC) in response to this public outcry against the judiciary, swung into action by organising a stakeholders' forum to deliberate on the vexed issue and the result of that meeting brought about a new "Code of Conduct for Judicial Officers" in Nigeria ([www.undc.org/news/2020/01](http://www.undc.org/news/2020/01)). For instance, one of the rules in the Code of Conduct for judicial officer says, "a judicial officer should avoid impropriety and the appearance of impropriety in all his activities." ([www.unode.org](http://www.unode.org)).

The NJC is the constitutional body charged with the sole responsibility of appointing, promoting and disciplining judges and justices of all courts established under the Constitution in Nigeria. However, members of the general public complained that the NJC had abdicated its constitutional functions over such judicial officers. Most of these concerns centred on the normative nature of natural law, few others touched on the nature of Nigeria's legal jurisprudence which is based on positive law.

For instance, in the public opinion, the recent travail of the judges in the hands of the DSS subject to the interpretation of the DSS service's law<sup>33</sup> had been applauded and approved by the public. However, this exercise has been described by courts as affront to the independence of the judiciary and the power of the National Judicial Council. Indeed, the public might be right to argue that corruption is a crime against humanity because of its negative chain effects in societies – big or small, poor or rich, developed or undeveloped. Nonetheless, if the relevant positive laws including the extant provisions of the Constitution are not followed the natural law jurisprudence that is, morality and public sentiments could overwhelm positive law jurisprudence with consequential effects on the people and the legal system of Nigeria.

#### **4. Appraisal of Status or Victories of Anti-corruption War**

An appraisal of the status or victories in the anti-corruption fight in Nigeria can only be measured by the prosecutions and actual convictions, as well as data on interim and final forfeiture orders of courts in high profile corruption litigations. It has been reported that from the inception of the EFCC in 2003 till 2016, the Commission secured about 1,500 convictions. (Ebhuomhan, 2017). Probably, the Commission secured the highest convictions in 2016. (Jones, 2018). In terms of prosecutions, the Commission since its creation has prosecuted so many high profile corruption related cases before different courts across the country. Regrettably, the Commission seems to have lost the majority of its cases in courts due largely to lack of painstaking investigations, lack of equipment, lack of adequate and requisite trained personnel, lack of strategic preparation and prosecutions. (Dania, 2017). Also, the quest to satisfy the thirst of Nigerians for convictions in the face of poor pay to judges invariably makes the judges to fall victims of sumptuous offers by corrupt public and private officials, in the system, with attendant sell out of judgments. (Akinselure, 2017 and Agbakoba, 2017).

In terms of both assets and recovered funds at interim and final forfeiture orders of courts, the Commission has recently made a detailed breakdown of its recoveries in both assets and moneys in different currencies as at 2010. ([thenationonline.net/breakdown](http://thenationonline.net/breakdown)). The

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<sup>32</sup>Babalola, A. (2017). DSS Midnight Arrest of Judges: Legal Issues and Recommendations (3). [oer.abuad.edu.ng](http://oer.abuad.edu.ng).

<sup>33</sup>National Security Agencies Act No. 19, 1986 (as amended), S. 3(a – c).

Commission, however, said through its Chairman that between May 2015 and October 20, 2017, it recovered the sum of ₦738.9 billion or \$29 billion. (<https://www.vanguard.com/.../efcc-sa...>). Thus, in keeping with the Act establishing the Commission, such recovered moneys from looters are usually paid into the Consolidated Revenue Fund of the Federation pursuant to the EFCC's Act<sup>34</sup> and the Constitution<sup>35</sup> respectively. The Commission dutifully holds such recovered moneys in its several bank accounts for any period of time before payment is effected as envisaged under the Constitution and its establishment Act. It may be expected that during the intervals, such funds usually attract interest payable by the banks.

The Commission is no doubt bound to transfer both the principal sums and interests accruable on these funds to the said Consolidated Revenue Fund. Curiously, the Commission is funded through annual budget. Oftentimes, the appropriated money does not effectively support the very expansive and extensive operational activities of the EFCC. It is in one of such situations that the Commission had to apply and obtained approval from the former President Goodluck Jonathan to utilise the interest on the funds recovered from the former Governor of Bayelsa State, Mr. D. S. P. Alamieseyegha, amounting to ₦183,124,185.94 in 2011. This money was meant to assist the Commission to overcome its low budgetary provisions and the attendant financial constraints. (Ikeke, 2018).

Regrettably, the staff strength of the Commission in different cadres as at 2015 stood at 2,173 and expected additional 750 personnel in 2016, to support the Commission's huge operations across the 36 States and 774 Local Government Councils in Nigeria. (<https://www.dailytrust.com.ng/efcc...>). In this regards, the powers of the Commission may be considered to be questionable in a democratic society like Nigeria. Also, the system of federalism where there exists or supposed to exist federal and state laws on crimes separately enacted and enforced, the existing countrywide powers of the Commission is therefore antithesis to true federalism.

The EFCC is a sister body to other anti-corruption bodies in the fight of corruption in Nigeria. It has huge, extensive and expansive anti-corruption functions and jurisdictions. These functions, no doubt, are fundamentally and arguably limited to purely financial and economic crimes as defined in its Act and which involve investigating and charging suspects/accused of such crimes to court and it is the duty of the court to determine the fate of the suspects. Ideally, in a federation the functions of the Commission, arguably, should be limited or applicable to the Federal Capital Territory with funding only from the Federal Government share of the Federation Account Allocation. Perhaps, it is to justify the extra-territorial functions and powers of the EFCC that Federal Government shoulders the sole funding of the operations of the Commission. Equally, the Federal Government of Nigeria is the sole beneficiary of the moneys in the Consolidated Revenue Fund of the federation which it arguably uses alone. It goes without saying that the victims (individuals, corporate bodies and other tiers of governments) of the corruption crimes merely have psychological and not therapeutic reliefs from the interventionist criminal justice by the Federal Government of Nigeria.

Again, the ICPC and DSS traditionally should have different roles to play in anti-corruption fight in Nigeria as it is the case the world over. The core mandate of the ICPC in

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<sup>34</sup>LFN CAP E4 2004 SS. 24 and 30.

<sup>35</sup>Cap C. 23 LFN 2004 S. 80.

corruption architecture is to prevent corruption in public and private establishments, in order to nip in the bud corruption related tendencies and the DSS is to prevent and protect the Nigerian Corporate existence against violence crimes and maintain internal security. Related to these specialised bodies is the Police Force established to maintain laws and order in the country.<sup>36</sup> A panoramic review of the lower norm which establishes the NPF, shows that its powers and duties cut across simple, misdemeanor felonious and corruption related offences.<sup>37</sup> Yet the Constitution and statutes enacted by the National Assembly place all these security and anti-corruption agencies under the control and funding of the Federal Government. This also explains away the very skewness of the revenue distribution formula pursuant to the revenue sharing formula by the Federation Account Allocation Commission (FAAC) Act<sup>38</sup> in favour of the Federal Government. The said overbearing functions raise issues of institutional capacity and independence.

In an African development forum, the Nigerian former President, Gen. Olusegun Obasanjo (Rtd.), had argued that Africa does not only need strong institutions like former President Barrack Obama of the United States earlier opinionated as a recipe for good governance and sustainable growth of the African continent, but that Africa also needs strong individuals who could provide leadership within the tenets of the rule of law, international best practices and the fear of God (Olatunjik and Ehiagh, 2018). The question, however, is, how could strong individuals be recruited in the face of endemic recycled leaders under the current monetised electoral processes as is the case in Nigeria, in particular and Africa, in general? (Unini, 2018). In an attempt to answer this seminal question, many leaders of the Christian denominations and churches in particular, have recently abandoned their traditional stance against political involvement and/or participation in the murky waters of politics by Christians to encouraging their members to vote and seek elective or appointive positions in government. Ostensibly, this may be to fulfill the admonition in the Bible, that when the righteous is on the throne the people rejoice. (KJV Prov. 29:2). For such Christian leaders, their perception and/or perspective is that the current process of recruiting political office holders is merely based on positive law requirements and other mundane things devoid of character content of such individual with demonstrable morality and citizenship towards nation building. However, what is the guarantee that a Christian that holds public office would not be overwhelmed by the house culture that is characteristic of public offices in Nigeria? Recently, the Nigeria's Vice President, Professor Yemi Osinbajo, has been accused of surrendering his lips to be used by Satan to lie and defame members of the main opposition party. (Omokri, 2018). It is, however, doubtfully whether the Vice President, who was a one-time Regional Pastor of the Redeemed Christian Church of Nigeria, could still uphold an independent mind, opinion and integrity now that he is in political murky water in Nigeria?

Similarly, there has a clarion call on the youths to come out and take their rightful place in active politics in Nigeria. This is to enable them to take over from the present recycled politicians in the country. This has prompted the bills in the ongoing constitutional alteration entitled "Not Too Young To Run" passed by both the NASS and more than two-third of the State Houses of Assembly and meant to encourage credible youths to enter into

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<sup>36</sup>Supra Police Act

<sup>37</sup>See Police Act, Cap. 19, 1979, S.4, CPA Cap 38 LFN 2004 and Penal Code Act generally.

<sup>38</sup> 1982, No.1 S.1

the political space. This would decompose the present misuse of youths by the current political elite in thuggery and other social vices.

In like manner, women have been challenged to fold their sleeves and take up positions in the political arena because their male counterparts who have put up abysmal performance in most leadership offices cannot just grant them any slot in the political contest gratuitously. This dynamism in the political participation blown across all segments of the Nigerian public lives, obviously, is a development in the right direction. Undoubtedly, it is, indeed, a monumental reaction against decades of bad leaderships and corrupt governance in Nigeria. This is why Plato, age-old admonition that the penalty for one refusing to participate in politics is for one to be governed by one's inferiors is more relevant today in Nigeria. (Brainyquote.com). Curiously, to Christian leaders, the inferiors are those leaders who are elected or selected based on positive law requirements only. Such inferiors are selfish and mentally bankrupt with quest to institutionalise themselves in public offices against the physiological, socio-economic and environmental needs of the citizens. Their desires are to steal and starch away public funds for at least three or more generations of their children, grandchildren and great grandchildren.

## **5. Perceptions of Anti-Corruption War and Corruption Fighting Back in Nigeria**

The word "perception" has been defined to mean the ability to see, hear or become aware of something through senses of the human body. (<https://en.Oxforddictionaries.com/perce>). Two of the senses of human body could be deployed to determine, examine, assess or appraise the utilitarian value of public policies formulated, implemented or enforced. The same applies to laws and regulations made by the State. These two senses are sight and hearing. Indeed, such senses are of vital important in intelligence gathering, investigation, decision making and value judgment. However, due to innate and mundane factors such as inherent human treacherousness, ethnicity, nepotism, clannishness, religious bigotry, fears and corruptibility, a good number of persons and indeed, Nigerians overtly or covertly deploy these senses selfishly and/or parochially against otherwise laudable public policies, actions, programmes, laws and regulations aimed at promoting collective pursuit of nation building.

Consequently, the perception about President Buhari's anti-corruption war shows that the war has been on trial within and outside Nigeria. In Africa, President Buhari's anti-corruption war has become a brand and a model to other African countries hence the recent acknowledgment of President Buhari by the African Union (AU) as the champion of anti-corruption fight in Africa. However, there is a negative perception by members of the PDP family, media, a section of the political elite and statesmen. For instance, the Transparent International (TI) has just released its report which reveals that the anti-corruption war remains a concept or mere policy document. Indeed, critics of this policy have averred that the methodologies of implementing the anti-corruption war of the President Buhari administration are not only faulty but they are also whimsical and selective. Recently, a list of alleged looters of funds in Nigeria has been released in batches showing only alleged members of the PDP looters and leaving out alleged looters of other political parties including the governing APC party.

This action by the Federal Government has fundamental defects as it violates the judgment of Justice Hadiza Rabi Shagari in FHC/CS/964/2016-to wit; that only the list of funds looters, the moneys and the circumstances of such recoveries should be published and

not any list of alleged funds looters before the courts. Therefore, the media publication of alleged funds looters undermines the powers of the courts to determine such ongoing corruption cases and it also violates the right of those persons listed in such publication. ([saharareporters.com/.../court-order-buha](http://saharareporters.com/.../court-order-buha)). This has raised issues of holistic and impartial anti-corruption war by the President Buhari's administration. Be that as it may, opinions are in unison that the personality, leadership quality and stance of President Buhari, a handful Nigerians have become conscious of corrupt practices and with time, such consciousness will translate to the reduction of the rate of corruption in public and private lives in Nigeria.

It has also been observed that the Constitution<sup>39</sup> empowers the President to perform all his executive powers alone, except subject to the provisions of the Constitution or an Act of NASS, which can make the President to delegate his executive powers to other persons. In view of such latitude of powers, President Buhari on assumption of office, failed, refused and/or neglected to appoint his Ministers after 29th May, 2015 and for upwards of six months. (Allison, 2018). The perception therefrom is that the delay and failure or negligence to do so contributed to the great recession that Nigeria experienced from 2016 to 2017. However, when the President finally named his cabinet members, they were made up of persons who were members and leaders of the different political parties that came under a coalition and subsequently collapsed to form the APC and that eventually went into 2015 elections and defeated the PDP government at national and the majority of states. Curiously, the persons so appointed as ministers were assigned portfolios in contradistinction to their learning and training. The perception therefore has been that these misaligned portfolios cannot lead to effective government policies formulation and implementation as well as enforcement of laws and regulations against corruption in particular. ([ventureafrica.com/.../buhari's-cabinet-the](http://ventureafrica.com/.../buhari's-cabinet-the)).

On a larger scale and broader appraisal, there is also the perception and perspective that President Buhari deliberately chose to use such appointments of his political associates and friends as well as decampees from the opposition parties due to fear of persecution and prosecution in fathom anti-graft cases, to compensate them. (Unini, 2018). To this end, the appointment will afford these political jobbers the opportunity to recover their investment in the President's 2015 election. For instance, the immediate past Secretary to the Federal Government, Babachi Lawal, who was removed from office on accusation of fiddling with moneys meant for the provision of a habitable environment for the Boko-Haram insurgency related internally displaced people (IDPs). Lawal allegedly played an important role in the emergence of President Buhari in the 2015. His eventual removal from office was due to massive accusations of complicity by the Federal Government and an attempt to cover up the report of Presidential Panel set up to probe such accusation against Lawal.

Equally, it has been alleged that during the absence of Mr. President on health ground for a long period in London hospital, a body euphemically called "Kitchen Cabinet" or "Cabal" procured, aided and/or facilitated certain appointments in some key federal agencies such as the National Health Insurance Scheme (NHIS), Security and Exchange Commission (SEC) to mention a few ([dailypost.ng/.../buhari's-kitchen-cabinet](http://dailypost.ng/.../buhari's-kitchen-cabinet)). Some of such appointees no sooner than later became corrupt and the Federal Government promptly suspended them to enable investigations to be carried out by the appropriate anti-corruption agencies. ([dailypost.ng/.../buhari's-kitchen-cabinet](http://dailypost.ng/.../buhari's-kitchen-cabinet) & <https://www.premiumtimesng.com>). Surprisingly,

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<sup>39</sup> Cap C23 LFN 2004 S. 5 generally.

for instance, while the said investigation has been ongoing course, the Presidency ordered the reinstatement of the Executive Secretary of the NHIS who has been placed on suspension. Curiously, when the public complained about such irregular reinstatement, the presidency countered through the Information Minister, Alhaji Lai Mohammed that the reinstatement of the Executive Secretary of the NHIS does not stop his trial. (saharareporters.com).

It has also been observed that there exists dearth of synergy and palpable conflict of interest between the anti-graft agencies in the country. For example, the EFCC was recently stopped by the DSS from effecting arrest on the former DSS and NIA bosses over allegation of corruption. Yet, when the Presidency was constrained towards into the face-off between these agencies that became the end of the case. Surprisingly, the presidency was reported to have admonished these agencies to go and work in a synergy. In a similar circumstance, there have been graft allegations leveled against some cabinet members of President Buhari particularly from Governors of the PDP controlled States. For example, the reports of administrative panels set up by PDP controlled states of Rivers and Ekiti States respectively, to probe former governors of these States– who are now serving ministers in the cabinet, indicted such former governors. Unfortunately, so far, no reasonable actions have been taken to cause the graft bodies to prosecute such persons or the Attorney General of the Federation and/or Civil Society Organisation (CSO) through writ of mandamus to do same. Equally, the federal civil service has been inundated with allegations of recruitments racketeering and of related lopsided appointments in the paramilitary services relating to strategic official positions in favour of a section of the country. As noted earlier, corruption is not only committed with monetary gains in view. It also now involves acts of nepotism and favouritism especially to the disadvantage of others, who are citizens of the same country. Recently, the Federal Ministry of Education carried out admissions into the Federal Unity Schools in Nigeria. Such admissions with discriminatory cut-off points appear to promote national favour to a section of the country that has been described as educationally disadvantaged zones. (Onyekayah, 2018). This act without saying more is unconstitutional and contemptuous. The resultant effect therefore is that the quality of human capacity to be harvested from such adulterated admissions process would have a future catastrophic effect on governance and the management of physical capital in Nigeria.

The administration under the 8<sup>th</sup> National Assembly had relatively the worst spectacle of executive-legislature relationship. The estranged relationship between these two arms of government started from the selection process of the leadership of the NASS and the executive – the ruling party undue interference with the independence of the members to select the leadership of the two chambers. However, the two chambers stood their grounds with their leaderships made up of persons chosen by the members themselves. Curiously, yet, the ruling party cacophonically exhibited a change mantra as its slogan. The question, therefore, is if the preceding administrations had portrayed such executive-legislature imbroglio with attendant consequential effects on monetary and fiscal policies resulting in negative impacts on the citizens, why should an administration which prided itself with change mantra continue with estranged relationship?

Nevertheless, the anti-graft agencies such as the EFCC, ICPC, DSS and indeed, the Nigeria Police Force (NPF) deserves some level of commendations in the anti-corruption war. The EFCC in particular, performed remarkably well in spite of its obvious bogus operational scope, limited resources and dearth of human and physical capitals. Nevertheless, the body could still do more especially so with the enactment at federal and states of the

Administration of Criminal Justice Act (ACJA)<sup>40</sup> and laws<sup>41</sup>. The ACJA has unambiguous provisions with which to assist the EFCC to carry out its investigative and due prosecution of cases in order to reduce the rising number of cases it has been losing on a continuous basis.

### **Corruption Fighting Back**

The anti-corruption war under President Buhari is the first of its kind in Nigeria in terms of its audacity or publicity. However, it is argued that the war is devoid of methods, methodology and adherence to the rule of law and international best practices. This may not be unconnected with the undying military antecedents of President Muhammadu Buhari, who whimsically has professed to have become a democrat. Arguably, Nigeria or indeed the African continent, is not bound to adopt international best practices hook, line and sinker. Hence, this proposition seems to inform and or forms the fulcrum of Buhari's administration wherein the president had in recent times admonished members of the Nigerian Bar Association specifically during the opening session of the 2018 NBA Annual Bar Conference, at Abuja, to the effect that national security concerns should be considered first before the rule of law is perceived.

In an earlier occasion President Buhari had requested the NASS to relax certain legislation to enable him to fight against corruption devoid of the rule of law.<sup>42</sup> On the two instances President Buhari's request was refused and condemned as anti-democratic and inconsistent with the rule of law. Again, the president recently signed an Executive Order 6 of 2018 on the Preservation of Suspicious Assets Connected with Corruption. The said Executive Order is made pursuant to the Constitution of the Federal Republic of Nigeria.<sup>43</sup> Nevertheless, the constitutionality or legitimacy of this order 6 was challenged at the Federal High Court. The court presided over by Justice Ijeoma Ojukwu held that the Executive Order 6 is not unconstitutional provided that the Attorney General, whose duty is to enforce the provisions of the Order observes the rule of law and the fundamental rights of persons accused of corruption.

The above court's decision received mixed reactions from among lawyers and political pundits across Nigeria. In an unusual obedience to decisions of courts the president ordered the Attorney General of the Federation to ensure immediate enforcement of the Executive Order 6 in line with the decision of the court. A schedule attached to the Order contains a list of fifty persons, arguably, members of the major opposition party. To this end, the PDP which is the main opposition party dutifully cried out that the Executive Order 6 is ostensibly a clampdown on its members against 2019 elections. This development necessitated an appeal against the judgment which recognizes the legitimacy of the Executive Order 6.

What is deducible from president Buhari's continued search for the right arsenal and templates to be deployed in the fight against corruption, which is believed to be fighting back within his second term is the fact that the war against corruption appears to overwhelm Buhari's administration and the imagination of the president. This is in spite of the measurable victories he has achieved over corruption war.

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<sup>40</sup>2015.

<sup>41</sup>ACJL of different States in Nigeria

<sup>42</sup> T. Adisa, We Asked Buhari To Suspend the Rule of Law for One Year To Fight Corruption – Niyi Akintola, SAN <https://www.tribuneonline.com>. Accessed on 14<sup>th</sup> November, 2018.

<sup>43</sup> 1999 now cap C.23 LFN 2004. ss 5 and 15(5)



During the current administration, many public officials at national and state levels, more than ever, have yielded themselves to the alluring power of corruption and thereby putting serious dent on the anti-corruption mantra of the APC led government and thereby demarketing the anti-corruption-free credibility and credentials of President Buhari. For example, the recent allegation of financial impropriety against Prof. Usman Yusuf - the Executive Secretary of the National Health Insurance Scheme (NHIS) by the Governing Council is quite worrisome. This is the second time that the said man has been accused of corruption yet he has continued to remain in office (Onyeji, 2018 and Abidoye, 2018).

Also, Governor Abdullahi Ganduje of Kano State who is a governor on the platform of APC has been accused of collecting bribes from contractors in his state. The allegations or accusations were made by Jaafar Jaafar- a publisher of an online daily newspaper. The Kano State House of Assembly's investigation into the allegations was stopped by an order of a Kano State High Court headed by Justice A. T. Badamasi at the suit of Barr. Muhammad Zubair.<sup>44</sup> Sequel to the court's decision on the matter, some Civil Society Organizations (CSOs) protested and petitioned justice Badamasi to the National Judicial Council (NJC) for appropriate disciplinary actions (Godwin, 2018 and Jannah, 2018). The CSOs described such decision of the court as mindboggling and an undue interference with the function of the legislature based on the principle of separation of powers.

Another instance is the allegation of possession and presentation of fake National Youths Service Corp (NYSC) Exemption Certification against Kemi Adesun - the pioneer Minister of Finance in President Buhari's cabinet. A similar allegation was leveled against Adebayo Shitu – the Minister of Communication for non-participation in the twelve months mandatory Youths Corp exercise in Nigeria. Curiously, Kemi Adeosun in her resignation letter to President Buhari in the wake of the allegation, investigation and findings thereto on her wrote:

I have, today, become privy to the findings of the investigation into the allegation made in an online medium that the Certificate of Exemption from NYSC that I had presented was not genuine. This has come as a shock to me and I believe that in line with this administration focus on integrity, I must do the honourable thing and resign (Inyang, 2018).

However, in the case of Adebayo Shittu, he argued that his case is different from that of Adeosun because he does not possess any certificate of exemption except that he failed or neglected to participate in the Youths Corp Scheme. Adebayo further averred that his non-participation in the Scheme was because he contested and won election into the Oyo State House of Assembly on the basis of constitutional requirements. He considers or ranks his service as a State House of Assembly legislator as “a higher service” (Olagoko, 2018).

An examination of the allegation and subsequent suspension of Prof. Usman Yusuf of NHIS by the Governing Council of the NHIS shows that the NHIS is in a serious mess. This scheme is further threaten by the fact that the relationship between the Minister of Health Prof. Isaac Adewole and other senior officials in the Federal Ministry of Health and the Executive Secretary is nothing to write home about. For example, during the recent House of

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<sup>44</sup> Suit No. K/497/2018

Representatives ad hoc Committee that is looking into the allegation and suspension of Usman Yusuf – the Executive Secretary of NHIS, several counter-allegations bordering on financial improprieties have been made by the suspended Executive Secretary of the NHIS against the Minister of Health and his Permanent Secretary.

The situation and or suspension meted out on the Executive Secretary resulted in the use of members of the Police by Usman Yusuf as self-help when at the same time the matter is before the court at the instance of the same Prof. Usman Yusuf, challenging his suspension. The presidency this time responded by commuting Prof. Usman Yusuf's suspension to administrative leave – a procedure which is arguably unknown to public service rules. In spite of the fact that the case is still in court the presidency set up an administrative committee to investigate the incident involving the Executive Secretary and the Governing Council of NHIS and thereby rendering the case before the court nugatory. (saharareporters.com).

In Governor Ganduje's case, the interference of the court in the discharge of the constitutional function of the legislature leaves much to be desired. In a democracy, separation of powers between the three arms of government is central and the fulcrum of good governance. Indeed, checks and balances may be deployed in circumstances where any arm of government carries out its function devoid of adherence to rule of law and human rights. Thus, the courts are not busy bodies but they are interventionists in order to ensure adherence to rule of law and fundamental rights of natural and artificial persons.

Also, the case of Mrs. Kemi Adeosun, the former Finance Minister in President Buhari's government is rather a pathetic one. Legally speaking, her professed and profuse ignorance that the Exemption Certificate she possessed is fake prior to the allegation and investigation which confirms the veracity of the allegation cannot generally amount to a defence of lack of knowledge or intention to contravene the NYSC Act. The NYSC is a public organisation and it does not operate its functions through intermediary. Therefore, Adeosun whether or not she was born and raised in the United Kingdom was not enough reason for her not to have applied directly or come to Nigeria for the Exemption Certificate from the NYSC. The use of a third party by Adeosun to procure such an important document instead of doing so personally shows that she is one person who did not perceive Nigeria as a worthy place to spend one's time yet she was subsequently provided the opportunity to serve as a Commissioner in her state of origin.

Paradoxically, President Buhari while accepting Adeosun's letter of resignation did not suggest by word or body language to the Attorney General or Inspector General of Police to arrest and prosecute the former Minister of Finance on the basis of the presidential investigation panel that looked into Adeosun's alleged fake NYSC's exemption certificate.

Equally, the non-participation in the NYSC twelve months mandatory service for persons of thirty years of age or below by Adebayo Shuttu- a sitting Minister of communications, is a clear case of disobedient of the law in Nigeria - for all intents and purposes. Adebayo's argument that his election into the Oyo State House of Assembly in 1979 was based on the constitutional requirements provided him with the opportunity to provide "a higher service" is both self and face-serving. The Constitution establishes Federal Executive Bodies<sup>45</sup> such as the Federal Electoral Commission (FEDECO) now Independence

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<sup>45</sup>Cap C. 23 LFN 2004 s. 153 (f)

National Electoral Commission (INEC). INEC is empowered to conduct, supervise and organise elections at state and national levels in Nigeria. Candidates of political parties cannot be disqualified by INEC if their nominations at the party primaries met the provisions of the INEC Act and party guidelines.<sup>46</sup> It is only the court that has the power to disqualify.<sup>47</sup>

However, the NYSC Decree<sup>48</sup> which is a general law<sup>49</sup> provides that all graduates of 30 years of age and below effective 1972/1973 academic year should participate in NYSC scheme mandatorily. It makes it an offence punishable with financial fine or criminal imprisonment or both for non-participation in the NYSC scheme by deserving graduates. Afortiori, Adebayo's failure to participate in the NYSC scheme before entering into politics and subsequently being elected a member of the Oyo House of Assembly amounts to a violation and disobedient to the NYSC's legislation. Again, Adebayo's appointment as a Federal Minister makes him a public officer.<sup>50</sup> As a public officer, Adebayo is bound by the Public Service Rules and his employer is the government of the federation<sup>51</sup> subject to the direction of the President of Nigeria. Therefore, the appointment of a Minister is expected to comply with the NYSC Act where the appointee presents a higher qualification like Bachelor degree or Higher National Diploma other than First School Leaving Certificate, General Certificate of Education or Certificate of Attendance adjudged equivalent by INEC.<sup>52</sup> In the case of presentation of higher qualifications to the then FEDECO and the presidency and other relevant bodies, Adebayo ought to have satisfied the requirement under NYSC Act. Failing which Adebayo renders himself criminally liable having not participated in the NYSC scheme ab initio.

The second area of consideration wherein corruption is seriously fighting back is in the outcome of partly primaries recently conducted by the political parties in Nigeria with the ruling APC party having more damaging incidents of parallel primaries and candidates emerging at such primaries. There are accusations of undue interference by the National Working Committees (NWCs) of both APC and PDP in the choice of persons who emerge as the party candidates at all levels or positions based on the concept of highest bidder and or god-fatherism. Again, APC is worst hit with incidents of implosion and gale of defection arising from such paralleled party primaries. What is more worrisome is the fact that most of the defectors from the main opposition party like Senators Godswill Akpabio, Hope Uzodinma and Dr. Orji Uzor Kalu among others are having corruption cases with the Economic and Financial crimes Commission (EFCC) in courts. The consensus of opinions therefore, is that such defectors' only aim is to weaken and derail the anti-corruption machinery of President Buhari's administration so as to protect themselves and their ill-gotten wealth.

Unarguably, APC came to power on the basis of a promise of doing things differently but the government under President Buhari led APC has welcome persons, in the name of jump-shipping into APC, purporting to give political support to President Buhari towards his second term bid in 2019 to pollute the government's anti-corruption war. These are persons

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<sup>46</sup> Electoral Act 2010. S. 87.

<sup>47</sup> Ibid subsection 10

<sup>48</sup> 1973 ss. 2 and 13

<sup>49</sup> Op cit, 2 s. 143 (2)

<sup>50</sup> Op cit, 2 5<sup>th</sup> Schedule Pt II item 7

<sup>51</sup> Ibid ss 147, 171 and 172.

<sup>52</sup> Ibid s. 65 (1) (a)

who were among those that governed this country and virtually ran their states' economy aground-between 1999 and 2015. Now that they are in the APC they shamelessly condemn the very administration that they served at the highest level of governance. One cannot but conclude that the decision by some persons to decamp to the ruling APC political party is meant to encourage corruption to fight back, kill and maim the APC against 2019 and beyond. This is especially so when one considers that President Muhammadu Buhari is seen as the stool of the APC whose political tenancy expires with likely demise of APC.

Under President Buhari's administration, the Acting Chairman of the EFCC had earlier been accused by different individuals and one of the security agencies of government of corruption but the president seemed to ignore such accusations. Recently, President Buhari, in a rare demonstration of his avowed commitment to the fight against corruption in the country, in July 2020, set up Ayo Salami Panel, to try and/or investigate the now suspended Acting Chairman of EFCC, Ibrahim Magu, arising from allegations of corruption leveled against him, in a memo to the President by the Attorney General and Minister of Justice of the Federation, Abubakar Malami. It has been alleged that the Judicial Commission of Enquiry being set up to try Mr. Magu is a ploy by the AG. Fed.- who has also been accused of corrupt practices of similar or higher magnitude than that of Magu is out to kill or weaken the administration's allegedly "uncommitted anti-corruption war" in Nigeria. In sum, the drum beat is quiet epochal of corruption fighting back.

Similarly, most politicians in both general and off season elections particularly in 2019/2020 have perfected the art of vote buying, which arguably started from Ekiti State election and spread through Osun, Kogi, Bayelsa and Edo Governorship elections.

There is, however, a direct and corresponding relationship between vote buying, poverty and stomach infrastructure, election participation and declared winners in elections in Nigeria.

Outlandishly, politics, religion and ethnicity now swim and float in the same water in Nigeria. Indeed, most unscrupulous Nigerian politicians now run to Pastors and Imams beyond the traditional rulers and native doctors, to seek for endorsement. This, undoubtedly, means that power no longer belong to the people but to the church, mosque and traditional leaders as well as the native doctors and indeed selfish godfathers, in Nigeria.

Recently, Nigerian political elite indulge in the habit of leaving their home states, on solidarity to wit: to canvas for vote to their party candidates. For instance, some sitting governors of both APC and PDP left their home states for Edo State during the just concluded governorship elections and whipped up ethnic and religious sentiments in order to secure votes for the governorship candidates under their parties platforms. This development is capable of dividing Nigerians the more along religious and ethnic lines. Also, if case is not taken, the person who eventually becomes elected and sworn-in as governor of the state may design policies against certain electorate and perceived individuals who voted on the basis of ethnic and religious colouration against such a governor. (Olaniyi & Bello, 2020)<sup>53</sup>.

The APC, which is the ruling party at national and most states in Nigeria, has the majority of senators and members of the House of Representatives. The party also produces the majority of members who make up the leadership of the two chambers respectively.

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<sup>53</sup>Olaniyi, M. & Bello, U. A. (2020). Nigeria: Edo Governorship – APC deploys five governors, forty four others for campaign. *Daily Trust* of 3rd July, 2020.

Unlike the 8<sup>th</sup> National Assembly, the current leaderships of the 9<sup>th</sup> assembly of the two chambers enjoy the nomination and support of the party National Working Committee (NWC), party stalwarts and the President. Indeed, it has been observed that most of the APC senators and House of Representative members currently, were elected on the goodwill of President Buhari. As a result of this political configuration the beneficiaries, therefore, of Buhari's goodwill must necessarily pay for such goodwill through a conditioned cordiality and/or compromised executive – legislative relationship.

The inherent advantages of such political calibration can be democratically rationalised. However, one notable disadvantage of such compromised political postulation is the fact that other party members of the ruling party who are eventually nominated as ministers are not thoroughly screened by the Senate of the National Assembly (NASS). The party members who become ministers have been known to be on a war part with committee members of the senate in recent times. When such ministers appear before any committee of the senate, the minister would give answers to questions put to them in a tendentiously denigrating, tarnishing manner and thereby overtly dragging the image of NASS, as a whole, in the mud.

This ugly development is not only potent danger to doctrine of separation of powers but it has been linked to the belief that most of the NASS members were not nominated and/or elected on merit but on the goodwill of President Buhari. Hence such members, ostensibly, do not and cannot have the moral standing to check perceived abuses and issues of corruption in the Ministries, Departments and Agencies of the Federal Government headed by such ministers of the Federal Republic of Nigeria. Therefore, the election and appointment of such lawmakers and ministers in NASS and federal cabinet, are arguably the rewards of their stewardship under the platform of APC and not as service delivery to the citizens.

The Edo governorship election campaigns by the two frontline parties, that is, the PDP led by Godwin Obaseki - the incumbent governor of the state and the APC governorship candidate, Pastor Ize Iyamu led by Comr. Adams Oshiomhole – who is the former governor of Edo state and was the immediate past National Chairman of APC as the leader of the APC governorship candidate during the Edo governorship campaign for 19<sup>th</sup> September 2020 governorship election.

The campaigns before the election became very fieceful, fearful and violence-ridden. In the wake of such bad political omens, concerned Nigerians and notably the US and UK governments condemn the spate of violence in Edo state. In particular, the US and UK issued Visa ban threat to possible election riggers in Nigeria.

The reactions by these two world powers, arguably instilled fears and brought about a modicum of peace and less incidents of vote buying, ballot box snatching and other related social vices during the said election in Edo. Opinions are divided as to why the US and UK governments should intervene and/or threaten the Nigerian government with Visa ban. The fact that Nigeria has and deserves territorial sovereignty and respect of it by other countries of the world does not give Nigerian leaders or anybody the license to promote and encourage electoral violence and wanton abuses of democratic tenets to which Nigeria has voluntarily subscribed. For instance, Nigeria is not only a strong voice in Africa but it has also been dutifully intervening in politically crises-ridden countries in Africa just like what the US and UK have been doing in Africa and across the world. It should rather worry Nigerian

government why institutions are not strong and the people are not nationalistic in words and indeed.

## 6. Conclusion

Corruption and stealing have been part of human society from the Bible time (KJV Joshua 7 generally). In particular, corruption has survived from then and till now. It has become a sickness like malaria fever which has no permanent cure. By extrapolation, corruption is a sin against humanity and it is the root of man's inhumanity to his fellow man. Undoubtedly, traditional, moral and modern antidotes and measures to fight against this phenomenon called corruption, which differ from country to country, have not been able to eradicate corrupt practices in human society. This can be traceable to human imperfection. By extrapolation, corruption can only be managed in developing and under-developing countries based on effective implementation of sectoral policies through rule of law and best practices.

## 7. Recommendations

The National Assembly (NASS) should alter certain provisions of the Constitution of the Federal Republic of Nigeria, 1999 and the Acts establishing the Federal anti-graft and security agencies for the purposes of delimiting and delineating the criminal jurisdiction and powers of such agencies, intergovernmental relations and decentralisation of the Nigeria Police Force, to wit:

- (a) Section 80 – to limit the powers and control of the Federal Government over public funds in federally related civil and criminal matters; and the exercise of executive powers of the federation as contained in section 5(1)(a – b) of the Constitution. This, for example, means that the federal agencies alone would collect and pay all revenues into an account that may be called “Federal Revenue Fund”, which should repeal and replace the existing “Consolidated Revenue Fund” of the federation.” Equally, at the State Government level, each State should establish an equivalent of the Federal Revenue Fund to be known and called the “State Revenue Fund” into which similar revenue shall be paid for the use of a State Government. In this case, the Federal and State Governments shall exercise control over the affairs of their respective agencies as it relates to the way and manner such agencies perform their statutory duties.
- (b) Exclusive Legislative List in the 2nd schedule to the Constitution –the 68 items contained in this List, should be unbundled and most of the items devolved to the Concurrent Legislative List, for the purposes of increasing the 30 items and the extent of the State Legislative powers in part II of the same Constitution under review. This way, there will also be a need to review the current revenue formula and distribution between the Federal, State and Local Governments in Nigeria. Presently, the Federation Account Allocation is based on 56%, 24% and 20% sharing formula for federal, state and local governments respectively. This will support the State Governments to carry out the additional responsibilities given to them. Also, section 162 of the Constitution should be altered for the purposes of enthroning true fiscal federalism where the States will explore and harness their natural resources as well as generate money and pay a specified percentage to the central government.
- (c) Section 214 should also be amended to decentralise the Nigeria Police Force. However, there should be national guidelines with a caveat against unlawful

deployment of a State Police against another State and its Police and in cases of the infringement of the fundamental human rights of citizens and residents in both civil and criminal matters either by a State Governor and/or any public officer or judicial officer. The guidelines should be made by NASS derivable from the Constitution. Equally, any unlawful deployment of the State Police by a governor should constitute an impeachable offence and where the abuse is procured by an individual or corporate body, both civil and criminal liabilities should lie against such an individual and/or corporate body.

- (d) When the centre becomes too attractive because of over-centralisation of powers, functions and funds distribution, the components States become weak, poor, inefficient and powerless towards law enforcement and socio-economic development. The end result of such weak inter-governmental relations engenders corruption and inefficiency. Therefore, devolution of powers in Nigeria will reduce the embers of ethnicity, nepotism, clannishness, corruption and the current idea whereby the State Governors go to Abuja on monthly basis to collect bail out money or statutory allocations. Besides, fiscal federalism will make the leaders closer to the citizens and residents and be accountable to them better than it is presently.
- (e) Besides the constitutional provisions on defection the constitution should be amended to disallow persons under criminal investigations from defecting to party order than the party they were elected.

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