

Stamping Corruption out of Our System: The Impact of National and International Legislations on Corruption Control in Nigeria

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Introduction

From the 1990s, the level of increase in corruption on the global plane has been astronomical and has hitherto generated cause for concern. Many countries have adopted anti-corruption policies,¹ legislations, setting up of anti-corruption institutions but unfortunately, from available records, little or no progress has been made. Corruption has permeated almost all facet of human endeavour while the “monster” is developing and growing in a geometric progression while remedial actions are growing in an arithmetical progression. Nigeria as a country has been rated as one of the most corrupt nations in the world.² This assessment of Nigeria is annoying and degrading to the extent that the negative image created by this “monster” is following all Nigerians every where they go. Outside the shores of the country, every Nigerian is treated with circumspect. The government is not folding its arm in attempting to stamp out this menace but it appears that the more the noise on stamping out corruption, the greater the rate at which it develops. The question that then readily come to mind is Where lies the problem? Does it lie with the inadequacy of legislation-national and international or is the problem that of implementation and enforcement or both. This paper seeks to examine holistically the concept of corruption, causes, and effects of corruption, detailed examination of legal instrument national and international put in place to address the menace of corruption and the extent to which these laws are effective and end with conclusion and recommendations.

Concept of corruption.

There are a plethora of definitions on corruption. Attempts at providing a generally acceptable definition of corruption have been unsuccessful. The reason for this is that some of the efforts at defining corruption are rather hasty, partisan or discriminative.³ Corruption as a term is very uncertain and devoid of any straight –jacket definition. Its definition depends on who is defining and from what perspective. However, some definitions of corruption are attempted hereunder.

Corruption is seen by many people as being coterminous with giving and taking of bribes. This, undoubtedly, is a very narrow attempt at defining corruption.

Corruption is derived from the Latin word “*corruptus*” which means to abuse or destroy. From this perspective, “corruption is a state of being or becoming decayed, spoiling or deteriorating.”⁴ Corruption is defined by Curzon as “an inducement by means of improper consideration to violate some duty.”⁵ Corruption is the deliberate violation for gainful ends of standard of conduct legally, professionally or even ethically established in private and public affairs. Those gains may be in cash or kind, or it may even be psychological or political but they are made for the violation of the integrity of an entity and involves the subversion of its quality and capacity.⁶

Another writer defines corruption in the following words:

...a diversion of natural course of events, with a view to conferring undue advantage on an individual or a group of individuals. It is an action or inaction which gives advantages or bestows favour on a person that he or she is not legally or morally entitled to. It is an abuse of all offices of trust for private gains, whether in public or private sectors. It is any form of illegal self-enrichment or the conferment of same on any individual to the

¹ See Leautier, F.A. (2006) “Preface” in Stapenhurst R. et al (eds) *The Role of Parliament in Curbing Corruption* Washington DC, World Bank. P. ix.

² See Report of the Transparency International, 2013.

³ Chukwunonso, O; Olorunfemi, J.F. et al (2013) “Analysing the Effectiveness of Relevant Laws and Crime Control Theories in the Fight Against Corruption in Nigeria.” Being a paper delivered at the 46th Annual Conference of the National Association of Law Teachers “Conference, held at the University of Ilorin, Ilorin, Nigeria, between April 24-26 2013, P. 3. ”

⁴ The New Webster’s Dictionary of English Language, International Edition, P. 219.; Etannabi, “Corruption and the Civil Society” being a paper presented at the National Conference organized on Corruption by NIALS, Lagos in March 2001 held at Abuja.

⁵ Curzon, L.B. (P 979) *A Dictionary of Law*, Macdonald & Evans.

⁶ Abegunde, B. (2005) “Legal and Institutional Panacea to Corruption” *Ibadan Bar Journal*, Vol. 4, Pp. 50 -63.

*detriment of the society. It is synonymous with moral decays, un-cleanliness, want of character and value deterioration*¹

Corruption is a deviation from Social Norms,² and it serves private and selfish interests for personal aggrandisement or a furtherance of family, clique or tribal sentiments. Corruption is wider than just taking of bribe, it encompasses embezzlement, nepotism, favouritism, settlement, misappropriation, misapplication, gross impropriety, extortion, influence peddling, fraud, plagiarism, examination and electoral malpractices, sexual harassment etc. The views of Afe Babalola SAN corroborated this wider dimension of the term, when he affirmed that:

*Corruption is any use of power by anybody for capricious or arbitrary use or any other purpose foreign to which it is meant. Corruption could take different forms namely; bribery, acceptance of favour, succumbing to undue influence, yielding to intimidation from a superior body. It includes corruptly influencing any constituted authority. It includes putting an incompetent person or setting up a mock interview or selection processing when the minds of the members of the selection panel have been made up. Corruption in a University includes allowing a Vice-Chancellor, Pro-Chancellor, Registrar, Dean or any other officer to have discretionary list wherein children and wards of their friends and associates could secure an admission when they have indeed failed JAMB entrance examination or scored below the cut-off-mark fixed for their department. It includes a lot more.*³

Furthermore, corruption has been defined by the World Bank thus:

*...the abuse of public office for private gain. Public office is abused for private gain when an official accepts, solicits, or extracts a bribe. It is also abused when private agents actively offer bribe to circumvent public policies and processes for competitive advantage and profit. Public office can also be abused for personal benefit even if no bribery occurs through patronage and nepotism, theft of state assets, or the diversion of state revenues.*⁴

In the definition of economic and financial crimes⁵ it is observed that beyond the multiplicity of meaning, corruption is a threat that runs through those crimes.⁶ Thus, the ICPC Act defines corruption to include bribery, fraud and other related offences.⁷ In the words of a learned writer. "It appears that there is no conflict between the definitions of economic and financial crimes and corruption."⁸ In other words, whatever passes for economic and financial crimes could equally be regarded as corruption. Again, the definition of corruption under ICPC Act suggests that every financial and economic crime that currently bedevils Nigeria is covered under "other related offences"⁹ as they would be *ejusdem generis* to bribery and corruption.¹⁰

A judicial definition of corruption can be found in *Biobaku v Police*¹¹ where the court held that:

¹ Kuta, D.A "The Legislature and Nigeria's Anti-Corruption War." Available online at <http://www.tribune.coming/index.php/politices/12351-thelegislation-and-nigerias-anti-corruption-war> , accessed on 8th February, 2014. See generally Nye, J.S. (1967) "Corruption and Political Development: A case Benefit Analysis," *The American Political Science Review* PP. 417-427 cited in "Corruption in Developed and Developing Countries- Defining Corruption" at <http://science.j.rank.org/pages/8845/htm>/accessed on 19th March, 2013.

² Offion, D. "(1982) "The prevalence and Repercussions of Corruption in Nigeria," in Odekunle F. (ed) Nigeria: Corruption in Development, Ibadan, University Press, P. 164.

³ See Inegbedion, N.A. (2004) "Corruption and Anti-Corruption Legislations in Nigeria " *Univeristy of Benin Law Journal*, Vol. 1, No, 2, 139 at P. 143.

⁴ World Bank: "Helping Countries Combat Corruption: The Role of the World Bank" Available online at <http://www.worldbank.org/publicsector/anticorruption/corruption/coro2.htm> accessed 5th September, 2013.

⁵ Economic and Financial Crimes means the non-violent criminal and illicit activity committed with the objectives of earning illegally either individually or in group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic, drug-trafficking, money laundry, embezzlement, bribery, looting, any form of corrupt malpractices. Illegal arms deal, smuggling, human trafficking and child-labour illegal oil bunkering etc.

⁶ Asogwah, F. and Okoli; P. (2008) Economic Crimes and National Development, Enugu: Institute of Development Studies, P. 5.

⁷ Section 2, Independent Corrupt Practices Commission Act (ICPC) 2003.

⁸ Asogwah & Okoli; Supra, P. 6.

⁹ Section 2, ICPC Acts.

¹⁰ Chukwuemerie, A.I. (2007), *New Dimensions in Commercial and Oil and Gas Law*. Port-Harcourt: Law House Books, PP. 438-439.

¹¹ (1935) 20 NLR 30. See also Akin Oyeboode (2001) "An Overview of Corruption in Nigeria" in Ayua I.A and Guobadia, A. (eds) *Political Reforms and Economic Recovery in Nigeria*, (Lagos: NIALS) P. 603, where the learned Professor of Law postulates that the symptoms of corruptions in Nigeria ranges from bribery, abuse of office, and influence peddling to nepotism, squandamania and unjust enrichment.

The word corruptly means improperly and proceeded to defined impropriety as the receiving of or offering of some benefit as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his duties.

The United Nations Convention Against Corruption 2004¹ also recognize corruption as a multi-faceted, dynamic and flexible phenomenon and therefore does not define, but describes corrupt practices. The Criminal Code creates the offences of corruption by public officials,² while the Penal Code create offences of corruption by public servants.³ Also, Friedrich defines corruption in the terms of transaction or exchange between corrupters and corruptees.⁴ Ever since man through his foibles, derailed the divine purpose of God for him by corruptly appropriating to himself the forbidden fruit as epitomized in the garden of Eden and his resultant inglorious eviction therefrom, he has remained an unrepentant practitioner of corruption which has now become a cultural practice.⁵

Typology of Corruption

Corruption is capable of diverse categorisations, and typologies. According to the United Nations Convention against Corruption 2004, corruption can either be grand corruption or a petty corruption. Grand corruption is the one that pervades the highest levels of a national life leading to broad erosion of confidence in good governance, the rule of law, and economic stability.⁶ Petty corruption involves the exchange of very small amount of money, the granting of minor favours by those seeking preferential treatment or the employment of friends or relatives in minor positions.

Corruption can also be active or passive. Active corruption usually refers to the offering or payment of the bribe while passive corruption refers to the receiving of the bribe.⁷ Corruption can also be public corruption or private corruption. Public corruption occurs in our public life. It is otherwise called public sector corruption. Public sector corruption includes abuse of office, of power, and abuse of public resources for personal gains, wasteful spending of public resources, misappropriation of public funds, kickbacks, bribery, inflation of contracts and contract splitting etc.⁸ The Economic and Financial Crimes Commission (EFCC) has been arresting and prosecuting public officers for abuse of office and corruption. Such public officers include ex-Governors,^{25(a)} Ministers, Legislators, Inspectors General of Police Etc.⁹ Also, public sector corruption takes place at the level of the judiciary.¹⁰ Corruption in the private sector covers both economic and financial corruption. It includes tax evasion, money laundry, financing of political parties etc. much of the corruption in the public sector is induced

¹ United Nations Convention Against Corruption 2004. See generally Akomolede, T.I, Abegunde, B, et al (2013) "The Independence of Anti-Corruption Agencies in Nigeria: Possibilities and Challenges" being a paper presented at the 46th Annual Conference of National Association of Law Teachers held in Ilorin between April 24-26, 2013.

² Section 98 Criminal Code Cap. 77 Laws of the Federation of Nigeria 2004

³ Section 115 Penal Code applicable in the Northern Nigeria.

⁴ Friedrich, C.J. (1966) "Political Pathology" *The Political Quarterly*, Vol. 37, P. 74.

⁵ Adetifa, E.K. (2008) "The Nigeria Police and the Syndrome of Corruption: The Legal Antidote" in Abegunde, B & Adebayo, W.A. (eds) *Policing Nigeria on Rule of Law and with Commitment: Essays in Honour of Oba Emmanuel Adebowale, Adebayo (The Elemure of Emure-Ekiti)*, Ado-Ekiti: Petoa Educational Publishers, P. 74. See also *Holy Bible* King James Version Genesis 3: 6, 23 & 24; Genesis 6, 7, 12. King James Version.

⁶ See Rose-Ackerman, S. (1996) "Democracy and Grand Corruption" UNESCO (ISSI/149/1996) reprinted in Williams, R, (2000) "Explaining Corruption" Elger Reference Collection, U.K. PP. 321-336. See also The Global Programme Against Corruption, UN-Anti-Corruption. Toolkit 3rd Ed. Vienna, September, 2004. See also Transparency International available @ <http://blog.transparency.org> accessed 22 February, 2013.

⁷ See Akomolede & Abegunde. (Supra) P. 8. See also The Global Programme Against Corruption, 3rd ed. Vienna, 2004.

⁸ See *Bode George & ors v FRN* where the accused were charge under section 104 of Criminal Code of Lagos State for offence of abuse of office.

^{25(a)} In fact, the erstwhile former governor of Bayelsa State Dieprieve Alamiaseigha was prosecuted for corruption and money Laundering Activities in Europe from where he disguised as a woman to escape from prosecution. Similarly the former Governor of Delta State; James Onanefe Ibori was about to be prosecuted by a Nigerian court for corruption when he was aided to escape from prosecution in Nigeria. He fled to the United Arab Emirate where his extradition request by Nigeria failed because of the absence of Extradition Treaty between the two countries. He was however, extradited to Britain because of the presence of Extradition treaty between UAE and Britain. For a detailed study, See Babatunde I.O (2010) "Extradition in International Law: The Ibori Conundrum" Vol. 4 University of Ado-Ekiti Law Journal. P. 266.

⁹ Agu, O.B. "Economic Crimes and National Security: Nigerian Perspective", NIALS, Lagos. See also Francis, E.N (2009) "Arrest, Detention of and Trial of Public Officers: The Nigerian Experience," in Epiphany, N. A. & Bolaji.O. (eds) *Rule of Law and Good Governance*, Abuja, NIALS Press, P. 149, see Akomolede, T.I. (2012) "Legislation as a Tool for Good Governance in Nigeria: Legal Matters Arising" *European Journal of Business and Social Sciences, Switzerland, Vol. 1. No. 6, P. 61.*

¹⁰ Adeyemi, A.A (2001) "Corruption in the Administration of Justice" Recently, Justice Thomas-Naron and Achibong were suspended by the National Judicial Council of Nigeria for corrupt and unethical practice. Thomas Naron was subsequently dismissed by Governor Jonah Jang of Plateau-State while Achibong hurriedly resigned.

by private sector corruption Hence, corruption in the two sectors complement each other. When companies engage in corruption, the consequences on the people can be devastating, such as water shortage, poor electricity supply, exploitative work conditions, unsafe medications, poorly and illegally constructed buildings that collapse and harm peoples lives.¹

Without prejudice to the foregoing, other categories of corruption also exist. For example, judicial corruption (corruption in the Administration of Justice; political corruption, economic corruption, corruption in the Executive Arm of Government, Corruption in the Legislative, official or administrative corruption, (bureaucratic corruption), moral corruption and corruption by Non-profit Association or Non-Governmental Organizations (NGOs)². Also, corruption is evident and endemic in the education sector as well as religious sectors of the economy. According to Popoola,³ Corruption can be categories into two namely: (i) Corruption of greed and (ii) Corruption of necessity.

From the foregoing, it is apt and safe to opine that the categories /typologies of corruption are not closed.

Factor Responsible for Corruption

Corruption is caused by a plethora of factors. It is however, important to say from the on set that corruption is so endemic in Nigeria because there is an-enabling environment for corruption to thrive well. There is a fertile ground for its breeding and continued existence given our social economic circumstances. Some of the major causes of corruption are:

i. Lack of good governance, According to the World Bank,⁴ governance means, “the manner in which power is exercised in the management of a country’s economic and social resources for development . Bankrupt, dishonest and corrupt leadership is the bane of corruption in Nigeria. Our government and leadership hate accountability, transparency, integrity.

Secondly, another cause of corruption is lack of job security. People lose their jobs here and there and even in the current democratic dispensations many governors sack civil servants employed by their predecessors.⁵ People no longer feel safe in their employment and they must plan for the rainy day.

Poor salary is another factor that explains corruption. Generally, distortion in Nigerian political economy with the attendant low and declining civil service salaries, delayed promotion or promotion not being based on performance, dysfunctional government budget etc, account for high incidents of corruption in Nigeria today. Other factors responsible for corruption includes poverty, unemployment, under-employment, weak and ineffective control systems,⁶ dysfunctional legal system,⁷ culture of greed and wrong values,⁸ weak enforcement and combative system,⁹ high cost of living, feeding, housing, transportation, education etc. Other causes of corruption include, illiteracy, ignorance, excessive materialism, get-rich-quick-mania, quest for power, money worshipping and worshipping of the rich, extended and large families, tribalising corruption, sentiment, among others.

The above lend credence to the truism that corruption has many root causes as confirmed by Seidman thus:

...There is no single cause of corrupt motivation. It exist in a wide variety of circumstances. The pressures pointing towards corruption are many and varied.¹⁰

Nigeria and Anti-Corruption Statutes

There are a plethora of anti-corruption legislations in Nigeria at the federal, state and even local government

¹ Adeyemi, A.A (1991) “Corruption in Nigeria: The Criminological Perspectives” In Nigeria in Kalu & Osinbajo (eds), *Perspective on Corruption and other Economic Crimes in Nigeria* (Lagos: Federal Ministry of Justice) P.1. see also, Oyebode, A. (2001) “An Overview of Corruption in Nigeria” in Ayua & Guobadia (eds) *Political Reform and Economic Recovery in Nigeria*, Lagos: Nigerian Institute of Advanced Legal Studies 603 at 605.

² See Okoduwa, R.A. “Combating Corruption in the Public Sector and the Role of the ICPC” unpublished.

³ Ademola Popoola is a Professor of Law at the Obafemi Awolowo University, Ile-Ife, Nigeria. Referee.

⁴ John, A. *et al* (2005) “Globalization, Democracy and Good Governance. The Best Practice, in Guobadia, D.A. and Azinge, ECJ (eds) *Globalization, National Development and the law*, Lagos, NIALS, P. 24.

⁵ Chukwuemeze, U.U. (2005), “Law, Corruption and Socio-Economic Development in Nigeria,” being a paper delivered at the Abia State University, Uturu on 20th day of July, 2005.

⁶ See “Critical Issues in the Fight Against Corruption in Nigeria” by Zero Corruption Coalition (Anti-Corruption League Forum) November, 2005.

⁷ Ayua, I.A. (2001) “Review of Corruption in Nigeria” 2001. Incomplete referee.

⁸ Olatunde, S.O. Tackling Corruption and corruption Tendencies Through Application of Due Process: CBN Experience (Unpublished)

⁹ Report of Political Bureau (1987).

¹⁰ Seidman R. (1974) “Corruption: A Case Study in Deviance”, in Brietzka P. (ed) *Source Book of Ethiopian Law and Development*, P. 264.

levels. Both the Criminal Code and the Penal Code specifically prohibit, criminalize and punish corruption and abuse of office.¹ Other legislative efforts at curbing corruption are evidenced in the enactment of the following statutes.²

Investigation of Assets (Public Officers and other Persons) Decree 1968; The Corrupt Practices Decree 1975; Public Officers (Special Provisions) Decree 1976; Miscellaneous Offence Act 1983; Recovery of Public Property Decree 1984; Bank Employees (Declaration of Assets) Decree 1986; Promulgation of Mutual Assistance in Criminal Matters within the Commonwealth (Enactment and Enforcement) Act No 13 1988. This law was Designed to bring Nigeria's municipal law in line with the Harare Scheme. The scheme contains provision on how to deal with the proceeds of Crime and Laundering of such money; The National Drug Law Enforcement Agency (NDLEA) Act 1990. This was the very first law promulgated in Nigeria which specifically makes money laundering a criminal offence; The Public Complaints Commission Act 1990; The Code of Conduct Bureau and Tribunal Act 1990; The Failed Bank (Recovery of Debts) and Financial Malpractices Act No. 18 of 1994; Failed Banks Act No. 16, of 1996; Foreign Exchange (Monitoring and Miscellaneous Provisions) Act 1995; Advanced Fees Fraud and other Related Offences Act No 13 of 1995, Banks and the Financial Institutions (Amendment) Act 2002; The Independent Corrupt Practices and Other Related Offences Act 2000; Economic and Financial Crimes Commission Establishment Act 2004. Even the Constitution of the Federation Republic of Nigeria 1999 provides that:

*one of the political objectives of the state is to abolish all corrupt practices and abuse of power*³

It is ironical that despite the magnitude of available anti-corruption legislations, corruption and abuse of power have been on the increase in Nigeria. What is also worrisome is the fact that despite the apparent rampancy of corruption, statistics show an imaginably low rate of cases reported to the police.⁴

Nigeria Anti-Corruption Institutions⁵

The institutions or agencies involved in the anti-corruption crusade in Nigeria include the following: The Economic and Financial Crimes Commission, (EFCC); the Code of conduct Bureau (CCB); the National Food and Drug Administration and Control (NAFDAC); the National Drug and Law Enforcement Agency (NDLEA); the Standard Organization of Nigeria (SON); The Nigeria Customs; The Immigration Service; The Budget Monitoring and Price Intelligence Unit; otherwise called "Due Process" which enforce strict compliance and adherence to probity in the award and execution of government contracts. Also, the police is meant to be an anti-corruption institution. Anti-corruption strategies will usually have to consider whether to establish a separate institution to deal with corruption problems, or whether to modify or adopt existing institutions.⁶

Both the EFCC and ICPC have the power to seize the assets of alleged corrupt public official and compel production of financial information.⁷ Both EFCC and ICPC can compel public officials to explain how they acquire property which is "excessive" and not justified by their sources of income.⁸

Both agencies have the power to receive complaint from members of the public on allegation of corrupt practice and investigate same. They also have power to arrest and prosecute in appropriate cases.⁹ Despite their wide powers, both the EFCC and the ICPC are widely regarded as ineffective¹⁰

The Code of Conduct Bureau is empowered to enforce the Code of Conduct of public officials. The primary role of the CCB is to collect asset declarations from every Nigerian public officials and verify the accuracy.¹¹ The major problems of the agencies is that they do not have enough capacity, independence¹² and

¹ See Sections 98(1) and 104 of the Criminal-Code. Section 98(1) provides for Seven years jail term for official corruption which is a felony. Section 104 provides for three years jail term for abuse of office.

² Akomolade & Abegunde, op.cit. Owolabi, E.A: "Corruption and Financial Crimes in Nigeria: Genesis, Trends and Consequences" unpublished. See Oguiche, (supra) P. 80. See also Alubo, et al (eds) A. O. (2009) "Winning the War Against Corruption Through Effective Legislation in Nigeria" in *Emerging Issues in Nigerian Law*, Ibadan, Constellation Publishers, P. 6 see also Zero Corruption Coalition

³ See. Section 15(5) Consultation of the Federal Republic of Nigeria 1999.

⁴ The reason for low reportage of corruption is that it is a victimless crime just like the unnatural offences, having regard to the mutual participation of the parties. It is only where the receiving party fail to keep his own part of the bargain (which instances are few) that the cases ever get reported. 6th UN Congress, Venezuela, August 25-Sept 5, 1990.

⁵ Akomolade & Abegunde, op.cit;

⁶ The Global Programme Against Corruption, 3rd ed. Nnenna,

⁷ See Sections 45-48 ICPC Act, and Sections 25-26 EFCC act

⁸ See Sections 44(2) of ICPC Act and Section 7(1) (b) EFCC Act.

⁹ See Section 6(a)-(f) ICPC Act.

¹⁰ See Human Rights Watch email correspondence with folu Olamiti, Abuja, August 10, 2011.

¹¹ See Schedule 5, Part 1, Section 11(1) of the Constitution of Federal Republic of Nigeria 1999.

¹² Human Rights Watch, August 2011, P. 28. The Chairman can be removed unceremoniously by the President as there is no security of tenure. There is so much political control and interference. The Attorney General of the Federations use of *nolle-prosequi* is amazing. There was also the tendency during Obasanjo's administration to use the agencies e.g EFCC as a

resources¹ to adequately perform their functions. The institutions saddled with the responsibility to curb corruption are themselves involved in it and are themselves guilty of corruption they are to curb.

International Anti-Corruption Statutes and Institutions.

There are plethora of anti-corruption legislation at international level some of which are: United Nations Convention against Corruption 2004. This convention requires the establishment of anti-corruption agencies, unless they already exist in some form, either as preventive anti-corruption body² or as bodies specialized in combating corruption through law enforcement.³ The convention which has addressed the scourge of corruption at the global level is a remarkable law that is pragmatic and offers new frame work for effective action and international cooperation. The convention has introduced a comprehensive set of standards, measures, and rules that all countries can apply to strengthen their legal and regulatory regimes to fight corruption. The convention calls for preventive measures against corruption and the criminalization of the most prevalent form of corruption in both the public and private sectors. It requires members states who are signatories to return all assets/ proceeds obtained through corruption to countries from which they stolen.⁴

Another, international legislation is the United Nations General Assembly Model Treaty⁵ on Mutual Assistance in Criminal Matters. This treaty was an outcome of the Milan Plan of Action adopted at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.⁶ The treaty provides that parties shall afford to each other the widest possible measure of mutual assistance in investigations or court proceedings in respect of offences the punishment of which at the time of the request for assistance, falls within the jurisdictions of the judicial authorities of the requesting state.⁷

The foregoing shows that corruption is a global menace deserving of global effort. According to one time Attorney General of the United States of America- Eric-Holder:

we must work together to ensure that corrupt officials do not retain the illicit proceeds of their corruption. There is no gentle way to say it: when Kleptocrats loot their nations treasures steal natural resources, and embezzle development aid, they condemn their nation, children to starvation and disease. In the face of this manifest injustice, asset recovery is a global imperative.^{8 9}

The United States is an example of a country that is committed to the global fight against corruption⁸ and in ensuring that corrupt leaders do not seek safe havens for their stolen wealth in the United States and that stolen assets are recovered and returned to those victims¹⁰ by the corruption.

Also, the International Police Organization (Interpol), the Worlds only international law enforcement organization, has being at the fore-front of the fight against corruption globally. The data base of the INTERPOL includes contact details for initial inquiries into asset recovery procedures and the amount or type of evidence needed to open criminal investigation or initiate civil action regarding stolen assets in foreign jurisdictions¹¹. The like of *James Onanefe Ibori* of Nigeria was fetched out by INTERPOL.¹²

Recently, multinational corporations are beginning to join a global movement to combat corruption. The World Bank has been giving its unflinching support to the fight against corruption, after realizing that over 35% of the

weapon for gaging and destroying political rivals. See Olukun-Ayomide, "N11.2 Million Fraud: AG.F Ask ICPC to Hand-off Trial of Minister "PM. News (Lagos) January 31, 2011."

¹ Inadequacy of funds is another major challenge to these agencies. Lack of funds or financial autonomy makes them to be at the mercy of president. Other challenges are lack of Co-ordinated National Anti-Corruption Action Plan.

² Article 6, UN Convention against corruption 2004

³ Article 36, Ibid.

⁴ See generally Articles 51, 52, 53, 54, 55 and 57 of the UN Convention against Corruption 2004. See also Dr. Yusuf, M.Y. and Mariyam, I.G et al "Recovery and Repatriation of the Proceeds of Corruption in Nigeria" being paper presented at the NALT Conference held between 22nd -26th April, 2013 at University of Ilorin. PP. 1-19.

⁵ United Nations General Assembly A/RES/45/117. Mode 1. Treaty on Mutual Assistance in Criminal matters of 14th December, 1990. See Yusuf, Y.M & Mariyam, I.G. op.cit. pp. 8-9.

⁶ Approved by the General Assembly Resolution 40/32 of 29 November, 1985.

⁷ See generally Article 1, 4, 17, of the Treaty on Mutual Assistance of 14th December, 1990.

⁸ Yusuf and Mariyam op.cit.

⁹ Some identifiable agencies involve in asset recovery cases in the United States include- Department of Justice Criminal Division, Office of International Affairs; Department of Homeland Security; Department of Justice, Federal Bureau of Investigation. In 2010 the US department of Justice (DOJ) Launched the Kleptocracy Asset Recovery Initiatives with the aim of providing support to co-operation in this area.

¹⁰ Asset Recovery on the Road to Doha: Activities under the Stolen Assets Recovery Initiative "paper presented to the open-Ended Intergovernmental Working (Group on Asset Recovery, Veinna, Australia, May 14-15, 2009.

¹¹ Abegunde, B. op.cit. P.61.

¹² Ibid. For a detailed analysis, see Babatunde, I.O. (supra).

Bank's money spend on aid projects are lost through corruption.¹ Transparency international an international non-governmental organization (NGO) based in America with branches in over 70 countries is also taking an active part in the global participation against crime.

In Europe, the Council of the European Union on Justice and Home Affairs is working on the belief that countries should actively pursue corruption as a crime against humanity and gross human rights violation.² Across the globe, corruption is facing a serious and steady battle but in the words of Nuhu Ribadu former EFCC boss, he said "when you fight corruption, it fights back." This shows that anti-corruption crusade in Nigeria and anywhere is a herculean task.

Applicability of International Treaties on Corruption in Nigeria.

Section 12 of 1999 Constitution of Nigeria provides that:

1. No treaty between the federation and other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.
2. The National Assembly may make laws for the federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.³

The foregoing constitutional provisions have been confirmed by judicial authorities.⁴

Effects of Corruption

The aftermaths of corruption may be so devastating Omotoso posited that:

*...effect of corruption is more devastating than terrorism, pestilence and HIV virus combined.*⁵

Etannabi, submitted that:

Corruption has for a long period been a major feature of the socio-political, economic, cultural and religious life in Nigeria. Corruption is open, systemic and pervasive in the country. It has permeated all spheres and levels of Nigeria society. Corruption produces or aggravates disasters such as oppressive regimes with their use of repression to perpetrate themselves in power in order to loot the national wealth. Such regimes invariably precipitate or aggravate and perpetuate various inhuman conditions in society, gross violations of human rights, socio-economic and scientific backwardness, mass poverty and illiteracy, high unemployment rates, lack of access to adequate and qualitative education, housing, health care, transportation, and communication, urban chaos and rural decay, intra and inter communal conflicts and mutual destruction. It is therefore evident, that sustainable development and democracy cannot be realized in a society where the culture of corruption thrives."

From the foregoing, it is beyond any colour of doubt that corruption is the worst monster that can bedevil any society. It is also clear that the cost of corruption on Nigerian economy, national security, national image among others cannot be over estimated.

Conclusion and Recommendation

Having considered the concept of corruption from a broad holistic perspectives, it is evident that corruption is a menace, and since the fight against corruption is a collective and universal one, all hand should be on deck. What is needed in fighting corruption is a holistic approach to the problem which should include the elimination of the contributory factors in a preventive and suppressive manner.

However, the following suggestions are hereby offered:

- ❖ There is need for political and financial independence of the anti-corruption agencies.
- ❖ There is a need for effective sanction and reward system. Corruption should attract as much as death

¹ All dridge, P. (2003) "Money Laundering: Forfeiture, Confiscation, Civil Recovery, Criminal Laundering and Taxation of the Proceeds of Crime", Oxford, Hart Publishing .

² Nuhu Ribadu was the former boss of the EFCC in Nigeria. Nuhu Ribadu, "Fighting Corruption in Nigeria" National Public Radio Morning Edition, April 4, 2007. Shortly after the arrest of James Ibori, Ribadu was abruptly removed as EFCC boss in January, 2008 and consequently Police Service Commission demoted him by two ranks, Also, the State Security forcibly removed him from the graduation ceremony at NIPSS, Kuru. Jos,

⁶⁴see, Generally, Camellus Eboh "Reuters, August 6, 2008. See also Tayo Obateru, "Drama at NIPSS. Ribadu Denied Graduation, Arrested," Vanguard (Lagos) November 24, 2008 etc.

³ Section 12(1) and (2) 1999 constitution of Nigeria.

⁴ Abacha v Fawehinmi (2000) FWLR (Pt. 4) 533; R.T.N.A.C.H.P.M v H.W.U.N. (2008) 2 NWLR (PT. 1072) 575.

⁶⁷ Omotoso, F. (2006) "Corruption, Private Accumulation and Problem of Development in Nigeria, *The Social Science* 1(4) PP. 334-343.

⁶⁸Etannabi, E.O.A (supra) note 4.

penalty

- ❖ There is need for removal of immunity contained in section 308 of Nigeria Constitution when corruption is involved. Those involved in economic and financial crimes should be excluded from being granted pardon under Section 175 (1) (a) of 1999 Constitution of Nigeria as amended
- ❖ There is need for specialized to hear and determine corruption cases
- ❖ There is a need for good and accountable leadership that will lead by example and provide employment and reduce poverty and insecurity
- ❖ There is need to increase international cooperation and strengthen the implementation of foreign treaties and conventions on recovery and repatriation of proceeds of corruption
- ❖ There is a need to entrench, adapt and domesticate international treaties and conventions against corruption in accordance with Section 12 (1) of the 1999 Constitution.¹
- ❖ There is a need to create more awareness by Civil Societies and NGOs and sharing of information through advocacy campaign.

¹ For further reading. See Babatunde I.O. (Treaty making and its Application under the Nigerian law; The Journey so far forthcoming); Nwapi, C. (2011) "International Treaties in Nigerian and Canadian Courts" Africa Journal of Inter'l & Comparative Law, Vol. 19, Issue 1, PP. 38. 65.