

MONEY LAUNDERING IN NIGERIA

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INTRODUCTION

This paper focuses mainly on the development of money laundering in Nigeria which was pronounced during the military rule under the regime of a corrupt leader General Sani Abacha and how after his death, it was difficult to recover the assets stolen by him, his family and associates due to the weakness of the Nigerian legal system which led to other methods which were adopted during the Obasanjo administration in order to enforce and establish the necessary laws for the offence of money laundering. This chapter also briefly discusses the need to the combat money laundering in Nigeria as it occurs from the economic cost of corruption which is associated with it and this creates a harmful effect to the financial and economic stability of the country.

DEFINITION OF MONEY LAUNDERING

The term 'Money Laundering' has been defined by various individuals, organizations and academics in different ways. The most common definition is described in Article 6 of the AU Convention as the conversion, transfer or disposal of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action, the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property which is the proceeds of corruption or related offences and the acquisition, possession or use of property with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences. The Financial Action Task Force on the other hand defines money laundering as the process by which criminal proceeds originated from criminal acts are generated into a profit which are disguised in order to enable the criminals to enjoy such profits without jeopardizing their source.

To simply put, the key phrase 'Money Laundering' is a process whereby criminals who include corrupt officials conceal the true origin, source and ownership of the proceeds acquired from illegal activities, disguising such income in order to make the illegitimate money or proceeds appear legitimate in the open economic market thereby concealing the identity of the beneficial owner, making it difficult to discover, investigate and prosecute the wrongdoers¹. Money laundering can also be defined as the integration of criminal incomes into assets which cannot be traced back to the underlying crime.² This process occurs in

¹ John Hatchard, and Edward Elgar 'Combating Corruption; Legal Approaches to Supporting Good Governance and Integrity in Africa 275-276, (2013)

² Peter Reuter and Edwin Truman, 'Insider Dealing and Money Laundering in the EU; Law and Regulation' 23, Ash Gate Publishing 2007.

three stages which includes placement, layering and integration.³ The Placement Stage involves the movement of funds from direct association with the crime for the purpose of concealing its true origin into a domestic or international bank or any other type of financial institution with the intention of removing the funds from the place of possession in order to avoid detection from the authorities thereby transforming it into other assets. The Layering Stage on the other hand occurs during the movement of funds (dirty money) with the intention to separate illicit proceeds from their source thereby disguising the trail to foil pursuit. This is where the role of the shell companies, offshore banks come in place. The last stage which is the Integration Stage is the stage where the goal of the criminals is mainly to have full access of the money. Thereby making the funds derived from the criminal proceeds appear legitimate, integrating the funds into a lawful flow of personal or commercial transactions such as investing in real estates, luxury assets or business ventures.⁴ Anti-money laundering on the other hand is the various steps, guidelines, policies and frameworks which has been put in place to fight the activities of money laundering.

HISTORY OF MONEY LAUNDERING

Nigeria represents more than half of Africa's total population cohabitating more than 237 million inhabitants. Nigeria's major source of revenue is oil and as a result the country is highly ranked among the members of the oil producing countries.⁵ After Nigeria gained its independence which was granted by Britain, the country went through various forms of political alterations, which ranged from the parliamentary to military to presidential form of government. Due to the failure of the presidential election held in 1993, the country relapsed back into the military regime which was under an autocratic and dictatorial leader, General Sani Abacha, who was the minister of defence and chief of army staff and took over power through a coup. After his death in 1998, he was replaced by General Abdulsalami Abubakar, who became the head of state and constituted a temporary government which transitioned to democracy and led to the election of a new president in 1999 (Chief Olusegun Obasanjo)⁶.

Nigeria had been afflicted long ago by corruption, but during Abacha's regime, corrupt practices was a norm which became regular in the system to such an extent that he was listed as the fourth (4th) most corrupt leader in history⁷. During the era of General Sani Abacha which was from 1993 to 1998, the financial system in Nigeria suffered crisis which was as a result of the inability of the financial supervisory authorities and

³ Kathleen Lacey and Barbara Crutchfield George, 'Crackdown on Money Laundering: A Comparative Analysis of the Feasibility and Effectiveness of Domestic and Multilateral Policy 267, Reforms', Vol 23 Issue 2, 2003.

⁴ John Howell, 'The Prevention of Money Laundering and Terrorist Financing: ICC Commercial Crime Services') 1-2 , 2006.

⁵ Nigeria's Oil Reserve and Ranking Among Oil Producing Countries (OPEC) can be found on OPECs website http://www.opec.org/opec_web/en/data_graphs/330.htm accessed 7May 2019.

⁶ Juliet Ibekaku, 'The Global Framework Against Money Laundering and Financing of Terrorism: The Nigerian Case Study' (2013).

⁷Robin Hodess, 'Introduction to Political Corruption'13 (2004).

enforcement agencies to prevent the abuse of the financial system which was caused by the military and their cronies.⁸ There was constant movement of funds from the central bank which was taken out of the country with the help of members of his family and associates most especially his security adviser, Alhaji Ismaila Gwarzo and his son Mohammed Abacha who played an important role in looting and transferring of money to foreign accounts. It is estimated that General Abacha and his family including his associates had stolen between Three Billion US Dollars (\$3,000,000,000) and Five Billion US Dollars (\$5,000,000,000) which was laundered into bank accounts in Switzerland, United States of America and other European countries.⁹ In an attempt to address the disrepute of the country as it was assumed a drug trafficking transit country which caused an implication for the financial system, the military dictators signed and ratified the United Nations Convention on Illicit Trafficking of Drugs and Psychotic Substances and that was when the military government enacted the first anti-money laundering legislation.¹⁰ The government also established the National Drug Law Enforcement Agency (NDLEA) Decree which was created to enforce the anti-drug trafficking and anti-money laundering provision in the decree and this was set up under the National Drug Law Enforcement Agency.¹¹ Nothing was done in order to ensure that this legislation was enforced and as a result of this nobody was convicted for the offence of money laundering before 2004. Following Abacha's death in 1998, Nigeria was under severe attack from the international community with the help of international financial institutions and other international organizations such as the Financial Action Task Force (FATF) which imposed sanctions on the military regime pressurizing the regime to create an enabling environment for democratic elections.¹²

Due to the sanctions, Nigeria was placed in the Non-Cooperating Countries and Territories list (NCCT) under the FATF as it was considered unwilling to cooperate with the recommendations laid down under the FATF with regards to its anti-money laundering laws and policies. This basically meant that transactions with Nigeria posed a risk to the global financial system in its relation to money laundering and terrorist financing. The Government's main concern therefore was aimed at removing Nigeria from the NCCT list as it was concerned about the country's reputation internationally caused as a result of the inability of the law

⁸ Enrico Monfrini, 'The Abacha's Case' published in 'Recovering Stolen Assets' (2008).

⁹ James Rupert, Corruption Flourished in Abacha's Regime, Washington Post, 9 June 1998

¹⁰ <http://www.washingtonpost.com/wp-srv/inatl/longterm/nigeria/stories/corrupt060998.htm> accessed 7 May 2019. Also known as the 1988 Vienna Convention.

¹¹ National Drug Law Enforcement Agency (Establishment) Decree 1995.

¹² The FATF is an intergovernmental body which sets standards and develops policies for anti-money laundering and combating terrorist financing established in 1990 at the G7 Summit and has its headquarters in Paris and monitors the implementation of the 2012 recommendations which includes international standards on combating money laundering and financing of terrorism and proliferation adopted in February 2012.

enforcement agencies to address the issue of organized crime which included drug trafficking, money laundering, advanced fee fraud, cybercrime, illegal oil bunkering and vice versa.¹³

These concerns therefore led to the enactment of the Independent Corrupt Practices Commission Act(ICPC) in 2000 and the Economic and Financial Crimes Commission Act(EFCC) in 2003 and the establishment of the commission as the main agencies in the enforcement of anti-money laundering laws and other related economic and financial crimes laws and regulations.¹⁴

Therefore, it would not be far-fetched to say that a more structured approach with regards to controlling the issue of money laundering in Nigeria started in 1999 after General Abacha's death where investigations revealed the extent to which he laundered funds which he embezzled from the public treasury through the financial system in Nigeria. The investigations commenced under the special investigation panel which was set up shortly after Abacha's death in 1998¹⁵ and focused largely on the individuals that assisted in the corrupt practices as well as diverting the funds and this included the Central Bank of Nigeria (CBN) who helped in facilitating the transfer of huge sums of money from Nigeria to other countries.

Although at that time most countries were still maintaining financial secrecy laws which prevented financial institutions from disclosing the sources and beneficiaries of the funds in their banks, this was as a result of inadequate legal rules on financial secrecy obligations and due to this, most banks were uncooperative in providing information for the fear of being criminally sanctioned by the court. The lack of effective bank investigations was also ascribed to the fact that the FATF recommendation with regards to the control of money laundering was largely not effective in many countries¹⁶. The countries where Abacha lodged most of his funds such as the United Kingdom, Luxembourg and Switzerland were at that time operating a largely non transparent financial disclosure measure and were definitely not willing to disclose the transactions that led to the laundering of Abacha's funds. The offence of money laundering in those countries applied only to drug trafficking and did not include other offences, such as bribery and corruption. Therefore there was a need to protect privacy and ensure confidentiality in issues that were related to banking transactions¹⁷. Also in Nigeria

¹³ Under the FATF, there were certain jurisdictions that were blacklisted as it was believed that they were uncooperative with other jurisdictions in international efforts against combating money laundering and terrorist financing. They were therefore regarded as the non-cooperative countries or territories (NCCT).

¹⁴ This was initiated during President Obasanjo's administration and subsequently amended in 2004, 2011 and 2012.

¹⁵ In order to tackle the extent of corruption and to recover the proceeds of the crime, one of the efforts made by the government was the setting up of the special investigation panel.

¹⁶ Although the first set of FATF recommendations had already been issued, it was still at a stage where most countries contemplated the development of legal frameworks that were necessary to enable full implementation. Therefore, many countries were not in a hurry to remove the cloak of secrecy that pervaded the global financial system then. Enrico Monfrini, 'Abacha's case' 53-54 (2008).

¹⁷ During the investigations it was observed there were more than eight accounts with \$630 million in Luxembourg which belonged to the Abacha's family which was frozen but unfortunately the authorities could not provide mutual legal assistance on the basis that money laundering offences only included drug trafficking as at 2000.

as at that time, the definition of money laundering had not expanded to include corruption and embezzlement of public funds and there was no provision putting banks under a legal obligation to submit reports on suspicious transactions in regards illicit funds which are laundered to a designated entity.¹⁸ As a result of such weakness in the Nigerian legislation, other means were explored in enforcing the offence of money laundering against the Abacha's family as the government of Nigeria could not sanction its own banks and their officials that participated in aiding the transfer of illicit funds to foreign banks.

The fight against corruption and money laundering developed into an important public policy issue and necessary steps had to be taken in order to make the society corruption free. The poor financial system was not the only problem but also, the justice system, ill equipped judiciary, weak law enforcement agencies, lack of comprehensive legal framework contributed to the problems that increased the rate of economic and financial crimes in Nigeria. The full extent of the corrupt practices and its operations were revealed to the general public at the end of the military era during which investigations were followed.

It became clear that the Abacha's regime lacked the morals necessary for any successful anti-corruption drive and in the long run majority of Nigerians came to the conclusion that combating corruption would be more suitable and effective in a democratic administration. As a result, during the Obasanjo regime the necessary efforts were put in place and he made it a major policy priority during his eight years in office which was motivated by a combination of some domestic and global developments. Obasanjo's anti-corruption drive at the domestic level was motivated by an unparalleled disclosure of evidence which was a product of corruption committed by his immediate predecessors especially the late General Sani Abacha where investigations showed how billions of dollars in public funds was diverted into several local and overseas bank accounts by Abacha and his collaborators.

The fight against corruption was motivated by the desire to correct the country's reputation due to its frequent appearance at the top of the list as the world's most corrupt nation which was an embarrassment to the Nigerian officials who travelled frequently overseas and also an obstacle for the nation reconciling with the international community which was a desired goal in obtaining foreign investments. There was negative international publicity about Nigeria and this made matters worse because the international community were concerned about the poor governance and its consequences in developing countries.

As a result of this, there was international pressure and threats of sanctions to implement the necessary measures required in the fight against corruption and other financial crimes during the Obasanjo's administration. This led to an anti-corruption strategy which involved a wide variety of measures that included the creation of specialized anti-corruption agencies which were the Independent Corrupt practices

¹⁸ The 1995 money laundering decree has now been replaced by the money laundering prohibition act 2011.

and other Related Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) with the aim of investigating and prosecuting corrupt individuals¹⁹.

THE NEED TO COMBAT MONEY LAUNDERING IN NIGERIA

For many years now, the political and social cost associated with corruption has increased both domestically and globally and this has affected not alone the society but also the economic welfare. Money laundering undermines the public trust in the integrity placed in the financial institution. It also poses as a challenge to the legitimate authority and facilitates the loots of national treasuries and capital funds for poor developing countries thereby creating an inherent threat to the financial and economic stability of the country thereby making it difficult to attract foreign investments. Money laundering also aids to facilitate other crimes such as drug trafficking, bribery, terrorism. etc. and due to the lack of transparency and high level of corruption. Such activities cause a damage to the country's reputation and reduces legitimate international opportunities and diminishes the development and economic growth. Amongst other things, it also poses as a source in the reduction of government revenue.

Therefore, there is the need to combat money laundering in Nigeria due to these negative consequences.²⁰

THE LEGAL FRAMEWORK FOR COMBATING MONEY LAUNDERING

This chapter analyses the legal framework of money laundering in Nigeria laying emphasis to the functions and powers of the Money Laundering Act and Economic and Financial Crime Commission Act which was enacted in order to answer the concerns of the Financial Action Task Force regarding the laws related to anti-money laundering and combating financial terrorism in Nigeria and how the role of the financial action task force has implemented measures to ensure that they are enacted in the national laws.

THE DEVELOPMENT OF ANTI MONEY LAUNDERING LAWS IN NIGERIA

Since the country got her independence in 1960, there has been a widespread of corruption and despite all efforts put in place to reduce the level of corruption, it proved abortive until the 2002 when President Olusegun Obasanjo undertook reform programs to help curb out the financial crime in the country. Even though the money laundering decree enacted during the military rule in 1995 was aimed at preventing and haunting down money launderers, there were still some loopholes that mitigated against its effective implementation.

The election of Olusegun Obasanjo as the president of Nigeria brought restoration of democracy in 1999 as it represented a period in the country's history when anti-corruption bodies were established. Obasanjo laid the foundation in his campaign and his determination to eradicate corruption in the society. He proposed and signed the anti-corruption bill into law in order to provide law enforcement and regulatory agencies with the

¹⁹ Dr David Uchenna Enweremadu, 'Anti-Corruption Policies in Nigeria'4-6 (No 1 2010)

²⁰ Uyoyou Kingsley and Ogbodo and Ebipanipre Gabriel Mieseigha, 'Economic Implications of Money Laundering in Nigeria' (Vol 3, No 4, 2013) 173-176.

most effective tools to combat money laundering. His main mission was to safeguard the financial system from the abuse of financial crime which included money laundering, terrorist financing and other illicit activity. This led to the establishment of two anti-corruption bodies; The Independent Corrupt Practices Commission (ICPC) created in 2000 and The Economic and Financial Crime Commission (EFCC) created in 2003 which are important tools as of today in the fight against money laundering and corruption both privately and publicly.²¹ When the ICPC was established it targeted corruption in the public sector especially in cases of bribery, embezzlement and abuse of office. On the other hand, the EFCC was established more importantly in rapid response to the pressure from the Financial Action Task Force (FATF) which named Nigeria among 23 non cooperative countries in December 2002 that aided in frustrating efforts of the international community in combating money laundering and as a result was placed in the Non Cooperative Countries and Territories (NCCT) list and was under threats by counter measures of the FATF recommendations due to the ineffectiveness of the decree in combating money laundering and the lack of political will to address the menace. Both bodies have helped vastly in the fight against corruption. Although despite the steps taken in improving the anti-money laundering system, their efforts have not resulted in eliminating such occurrence.²² In response to combating money laundering and other financial crimes, other legislative measures were also taken which included the enactment of The Banks and other Financial Institution act amended in 2002, The Advance Fee Fraud and other Related Offences Decree (1993), The Corrupt Practices and other Related Offences Act (2000) which established The Independent and Corrupt Practices Commission and also The Electoral Act (2002).

For the purpose of this research more emphasis will be made on two major statutes which are still in operation today. These are;²³

- The Money Laundering (Prohibition) Act enacted in 2004 but repealed by the Money Laundering (Prohibition) Act 2011.
- The Economic and Financial Crime Commission Act²⁴ enacted in 2004 which established the EFCC thereby coordinating investigations on anti-money laundering.

²¹ Ilufoye Sarafa Ogundiya, 'Political Corruption in Nigeria: Theoretical Perspective and Some Explanations' (2009) 289.

²² Michael Ogbeiidi, 'Political Leadership and Corruption in Nigeria Since 1960: A Socio-Economic Analysis' (2012) 10-11.

²³ Ilufoye Sarafa Ogundiya, 'Political Corruption in Nigeria: Theoretical Perspective and Some Explanations' 289, 2009

²⁴ Michael Ogbeiidi, 'Political Leadership and Corruption in Nigeria Since 1960: A Socio-Economic Analysis' (2012)

THE MONEY LAUNDERING (PROHIBITION) ACT

The Act makes provision for the repeal of the money laundering act 2004 and thereby enacts the 2011 Act which supersedes and improved the previous versions of the act. This act was signed by the former president, Jonathan Goodluck in June 2011.²⁵ It makes comprehensive provision for the prohibition of terrorist financing, laundering of the proceeds of crime or any illegal act, thereby making provision for appropriate penalties and expanding the scope of the supervisory and regulatory authorities so as to address the challenges faced in implementing anti-money laundering in Nigeria. The Act creates a framework for a wider customer identification system and anti-money laundering obligations for the financial and non-financial institutions as mandated by the FATF.

The Act which was enacted by the national assembly of the Federal Republic of Nigeria and is divided into three parts will be focusing on key sections which are pertinent to this research paper.²⁶

The Act provides for the prohibition of money laundering thereby creating a limit to make or accept payment either as an individual or body corporate. In the case of an individual, this applies to sums that exceeds Five Million Naira (#5,000,00.00) or its equivalent while in the case of a body corporate sums that exceeds Ten Million Naira (#10,000,000.00). It also provides for a duty to financial institutions to report international transfer of funds and securities exceeding Ten Thousand Dollars (\$10,000) or its equivalent to the Central Bank of Nigeria²⁷ or the Securities and Exchange Commission within seven (7) days from the date of the transaction²⁸. In a situation where cash or negotiable instruments in excess of Ten Thousand Dollars (\$10,000) or its equivalent is being transported by individuals in or out of the country, it shall be declared to the Nigeria Custom Service²⁹, failure to make sure declaration constitutes an offence liable on conviction to forfeit not less than 25% of the undeclared funds or negotiable instrument or to imprisonment of not less than two (2) years or both.³⁰

²⁵ Daniel Idonor, 'Jonathan Signs Terrorism, Money Laundering Bills into Law' (Vanguard, 6 June 2011) <http://www.vanguardngr.com/2011/06/jonathan-signs-terrorism-money-laundering-bills-into-law/> accessed 7 May 2019.

²⁶ Uyoyou Kingsley Ogbodo and Ebipanipre Gabriel Mieseigha, 'Economic Implications of Money Laundering in Nigeria' 173-176, Vol 3, No 4, 2013

²⁷ The Central Bank of Nigeria is Nigeria's central bank. The central bank serves as the banking regulator, issues legal tender and maintains the external reserves of Nigeria. The central bank also serves as the financial adviser to the federal government and helps promote monetary stability and a sound financial environment.

²⁸ S 1, 2.

²⁹ The Nigeria Customs Service (NCS) is an independent agency under the supervisory oversight of the Nigerian Ministry of Finance, responsible for the collection of customs revenue and anti-smuggling efforts.

³⁰ The Foreign Exchange (Monitoring and Miscellaneous Provisions) Act.

Financial institutions³¹ and designated non-financial institutions³² on the other hand are obligated to verify its customers' identity and also update relevant information on the customer which includes international passport, driving license, national identity and other personal information, during the course of the relationship with the customer. Also scrutinizing all transactions undertaken throughout the duration of the relationship with the aim of ensuring that the customers' transaction is consistent with the business and risk profile³³. In a situation where a financial institution suspects or has reasons to believe that the amount involved in a transaction is the proceeds of crime or an illegal act, it shall require the customers identification even though the amount involved in the transaction is less than One Thousand Dollars (\$1,000) or its equivalent³⁴ and if it appears that a customer may not be acting on his own account, reasonable means shall be taken to identify the true beneficial owner.³⁵ Special surveillance is given in certain transactions where it involves in an amount which is unjust or unreasonable and appears to have no economic justification or lawful objective or where in the opinion of the financial institution such transaction pattern is suspicious or involves terrorist financing. The financial institution involved in such transaction shall therefore seek information from the customer in order to obtain the true origin of the fund, the reason for such transaction and the identity of the beneficiary.³⁶ Financial institutions and designated non-financial institutions are also obligated to preserve and keep records of a customer's identification for a period of at least five (5) years after an account has been closed at the disposal of the authorities and such records must be communicated on demand to the Central Bank of Nigeria or the National Drug Law Enforcement Agency and other such regulatory authorities which may be requested for in order to identify and locate proceeds, properties or any other thing related to the commission of an offence under the act³⁷ and customer confidentiality or bank secrecy shall not be invoked as a ground for objecting to these measures³⁸. The employees of financial institutions are not left out as the act obligates the financial institutions to develop programmes to combat money laundering or any other illegal

³¹ Financial institutions mean banks, body, association or group of persons whether corporate or incorporate which carries the business of investments and securities, bureau de change, investment services etc.

³² The act gives a wider definition of Designated Non-Designated Financial Institutions to include dealers in jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other business as the Federal Ministry of Commerce or appropriate regulatory authorities may from time to time designate, this differs from the meaning in the fatf recommendations as it includes casinos, real estate agents, trust and company service providers. This shows the extent to which the FATF recommendations has been incorporated.

³³ S 3 (1a) (b).

³⁴ S 3 (6).

³⁵ Ibid (7).

³⁶ S 6 (1).

³⁷ S 7, 8.

³⁸ S 13(4).

crime which includes designating compliances officers at every branch and local office, regular training programmes, centralization of the information collected and also the establishment of an internal audit unit. This is done in order to create an arousing awareness of the menace of money laundering among the employees.³⁹ Also the opening or maintaining of different or anonymous accounts by any person, financial institution or corporate body is prohibited and if contravened, constitutes an offence liable on conviction.⁴⁰

The act also makes provision for the offences that constitutes money laundering. The act defines money laundering as converting or transferring resources obtained from illicit traffic in narcotic drugs and substances, participating in terrorist financing, trafficking, tax evasion, bribery and corruption, counterfeiting currency, kidnapping, forgery, piracy, insider trading and market manipulation and any criminal act which is specified in the act with the aim of concealing or disguising the illicit origin of the resources in order to evade illegal consequences of such action. A person found guilty of any of the offences listed is liable on conviction to imprisonment for a term not less than five (5) years but not more than ten (10) years⁴¹. Also in a situation where investigations are being carried out on a customer due to a suspicious transaction, any person being a director of a corporate body or employee of a financial institution who notifies the owner of the funds involved in the transaction about such report, destroys records, carries out such transaction under a false identity, makes or accepts cash payments that exceeds the amount stipulated under the act or fails to report an international transfer of funds or securities which is required to be reported, therefore contravening the provision of section 2,3,4,5,6,or 7 of this act commits an offence⁴². Such a person may also be banned indefinitely or for a period of five (5) years from practicing the profession for committing such offence.⁴³ Also any person who engages or benefits from a criminal conduct acting as an accessory or conspirator thereby aiding and abetting other persons to commit an offence is liable on conviction to the same punishment which has been prescribed for such offence by the act.⁴⁴ If such offence is committed by a corporate body, the court may order that such body be wound up and all its assets and properties be forfeited to the federal government. The federal high court has exclusive jurisdiction to try offences under this act.⁴⁵

³⁹ S 9.

⁴⁰ S 11.

⁴¹ S 15 (1a) (b)(c)

⁴² S 16 (1).

⁴³ S16(2).

⁴⁴ S16(3).

⁴⁵ S16(3).

THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (ESTABLISHMENT) ACT

The Economic and Financial Crimes Commission (EFCC) was established in 2002 by an Act of the National Assembly, which was amended in 2004. This act provides for the establishment of the economic and financial crimes commission charged with the responsibility of the enforcement of all economic and financial crimes law among all other things which in the act is referred as 'the commission'. This act was signed by the former president, Chief Olusegun Obasanjo in June 2004. The act provides the commission as the designated Financial Intelligence Unit (FIU) in Nigeria with the responsibility of co-ordinating the various institutions involved in the fight against money laundering and enforcement of all laws that concerns dealing with economic and financial crimes in Nigeria.⁴⁶ The act provides that the commission shall be responsible for enforcing and administering provision of this act, investigation of all financial crimes which includes money laundering, computer credit card fraud, illegal charge transfers, advance fee fraud etc., the coordinating and enforcing of economic and financial crime laws. The commission shall be responsible for adopting the necessary measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences and collaborating with the governmental bodies within and outside and Nigeria in matters concerning identifying and determining the whereabouts and activities of persons suspected of being involved in criminal activities which includes economic and financial crimes, maintaining and monitoring a system that identifies suspicious transactions and persons involved. Maintaining data, records and reports on persons, organizations, proceeds or other items involved in economic and financial crimes and also dealing with matters that are connected to extradition, deportation and mutual legal or other assistance between Nigeria and any other country involved in economic and financial crimes. The commission is therefore in charge of supervising, controlling, coordinating all activities relating to investigating and prosecuting of offences that are connected or related to economic and financial crimes and shall liaise with all government security and law enforcement agencies and other financial institutions in order to eradicate such crimes in the country. The commission also has power to cause investigations to be conducted on any persons or corporate body, or on properties of any persons where it appears that such persons' lifestyle and extent of the properties are not justified by his source of income.⁴⁷ For the eradication of offences under this act, the commission shall initiate, develop or improve specific training programmes for its law enforcement agents.⁴⁸

⁴⁶ S 17, 18.

⁴⁷ S 20 (1).

⁴⁸ Economic and Financial Crimes include any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting, illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, etc.

The Act also creates for offences which are liable on conviction ranging from imprisonment for a term not exceeding five (5) years or to life imprisonment or to a fine of Five Hundred Thousand Naira (#500,000) or to both imprisonment and fine. This applies to cases where a bank officer or other financial institution or designated non-financial institution fail to comply with the provisions of this act.⁴⁹ Also to persons who wilfully provides or collects money from or for another person with the intention of using such money for an act of terrorism or commits or attempts to commit a terrorist act, or assists another in providing funds, financial assets or economic resources to facilitate the commission of a terrorist act.⁵⁰ Any person who in the discharge of his duty under this act gives false information also commits an offence under this act. The regulatory agencies or bodies in the financial sector in exercising its functions shall liaise with the commission to investigate and monitor the commission of economic and financial crimes⁵¹. The court that has jurisdiction to try offenders thereby imposing penalties, ensuring all matters brought are dispatched and given accelerated hearing and adopting all legal measure to avoid delays is the Federal High Court or High Court of a State of the Federal Capital Territory.⁵² It is also noted under this act that a person who is convicted of an offence shall forfeit all assets and properties to the federal government and same also applies where it is established the convicted person also has assets or properties in a foreign country.⁵³ The act also provides that the passport of any person convicted of an offence shall also be forfeited and shall not be returned until such person has served the sentence imposed or has been granted pardon by the president⁵⁴ and such person when arrested must make a full disclosure of all his assets and properties.⁵⁵

THE ENFORCEMENT OF THE MONEY LAUNDERING STATUTES IN NIGERIA

The relevant organs with the mandate to enforce the laws that concern money laundering in Nigeria include, the Attorney General of the Federation (AGF), the Nigerian Police and the Anti-Graft Commissions. The 1999 constitution of the Federal Republic of Nigeria confers the AGF with the power to institute and undertake criminal proceedings against any person before any court of law in Nigeria and also to take over and continue any such proceedings which may have been instituted by any other authority or person.⁵⁶ Therefore, by the principles of this provision the AGF has the power to prosecute a person accused of the offence of money laundering. The Police Act 2004 on the other hand provides the Nigerian police with wide investigatory and

⁴⁹ S 1 (1) (2c).

⁵⁰ Part II- Functions of the commission. S 6, 7.

⁵¹ S 11.

⁵² S 14(1).

⁵³ S 15.

⁵⁴ S 16.

⁵⁵ S 19 (1)(2).

⁵⁶ S 20 (1a),

prosecutorial powers which empower the police to institute a criminal proceeding against any person before any court in Nigeria.⁵⁷ The fight against money laundering is not left to the AGF and the police alone but also to the special anti-graft commissions (EFCC & ICPC) which are established with specific mandate.

THE ROLE OF THE FINANCIAL ACTION TASK FORCE IN COMBATING MONEY LAUNDERING IN NIGERIA

Nigeria is a member of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) which was established in December 1999 by the government of the ECOWAS⁵⁸ with the aim to incorporate and reflect the imperative to fight terrorist financing. The GIABA became an associate member of the FATF in June 2010 with its purpose aimed at protecting the national economy and financial system against the proceeds of crime and combating terrorist financing, improving measures and efforts to combat the proceeds of crime and also strengthening cooperation amongst its members.⁵⁹

The Financial Action Task Force on the other is an inter-governmental body which was established in 1989 by the G-7 with the aim of developing policies to combat money laundering and terrorist financing and the financing of proliferation of weapons of mass destruction. The position of the FATF as regards Nigeria's anti-money laundering campaign was contained in its publication where the FATF expressed its dissatisfaction thereby referring Nigeria amongst other countries as posing high risks to the world's financial system because of the way issues that related to money laundering was handled.⁶⁰ Nigeria was then blacklisted as it was regarded as a high risk area for money laundering and as a result of this lost over \$25 billion worth of investment as no genuine investor was willing to invest in the country. The FATF also required that the government considered tax evasion as a form of money laundering offence. The FATF then recommended that Nigeria implemented adequate measures to identify and freeze terrorist assets and also enact and enforce relevant laws and regulations to address the deficiencies in the system in regards the issues of combating money laundering, urging Nigeria to demonstrate that anti-money laundering supervision was being undertaken effectively within its financial sector. In response to the FATF, Nigeria created other legislative measures as stated above which led to the implementation of its anti-money laundering law regime and investigations, prosecutions and convictions on corruption and money laundering related cases.⁶¹

The FATF 2012 recommendations set standards which are recognised as the global anti-money laundering (AML) and counter terrorist financing (CFT) standards which are endorsed by over 180 countries in the world

⁵⁷ S 22(1).

⁵⁸ S 23.

⁵⁹ S 27(1).

⁶⁰ S 174(1).

⁶¹ S 23.

including Nigeria. These standards are aimed at promoting the effective implementation of the legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of both the national and international financial system which countries must implement through all necessary measures and must have in place. These measures include, identifying risks and developing policies, pursuing money laundering, terrorist financing and financing of proliferation, supplying preventive measures for both the financial sector and other designated sectors, establishing powers and responsibilities for the competent authorities in order to combat money laundering and terrorist financing, also enhancing transparency and availability of information concerning the beneficial owner and facilitating international cooperation.⁶²

The FATF therefore mandates that countries in compliance enact the recommendations in their national laws in both the financial institutions and designated non-financial institutions which have already been enacted in both the economic and financial crimes commission act and the money laundering act amongst other things to criminalise both money laundering and terrorist financing as an offence⁶³, to undertake customer due diligence measures in verifying and identifying the customer, the beneficial owner and also scrutinizing the transaction which are undertaken throughout the course of the relationship⁶⁴. The financial institutions are therefore required to maintain all necessary records on transactions both domestic and international for at least five years which should also be made available to domestic competent authorities upon request to the appropriate authority.⁶⁵ Also reporting suspicious activity to the Financial Intelligence Unit (FIU), financial institutions are prohibited from disclosing the fact that a suspicious transaction report or related information is being filed with the FIU.⁶⁶ As regards transparency and beneficial ownership of legal persons, the FATF mandates countries to ensure that there is adequate and accurate information on the beneficial owners and take measures to prevent the misuse of legal arrangements for money laundering or terrorist financing.⁶⁷ Countries are also mandated to ensure that there is a range of effective and proportionate sanctions be it civil or criminal

⁶²Adegboyega Ige, 'A Review of the Legislative and Institutional Frameworks for Combating Money Laundering in Nigeria' 117-120, (NIALS Journal on Criminal Law and Justice Vol 1 2011)

⁶³ Economic Community of West African States (ECOWAS). the treaty of Lagos, ECOWAS is a 15-member regional group with a mandate of promoting economic integration in all fields of activity of the constituting countries. Member countries making up ECOWAS are Benin, Burkina Faso, Cape Verde, Cote d' Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo. Considered one of the pillars of the African Economic Community, ECOWAS was set up to foster the ideal of collective self-sufficiency for its member states. As a trading union, it is also meant to create a single, large trading bloc through economic cooperation. Established on May 28 1975

⁶⁴Rec 10.

⁶⁵ Rec 11.

⁶⁶ Rec 20, 21.

⁶⁷ Rec 24, 25.

available to deal with persons that fail to comply with the anti-money laundering or combating terrorist financing requirements.⁶⁸ Also in relation to facilitating international cooperation, countries are mandated to provide effectively the widest possible range of mutual legal assistance in cases relating to money laundering, associated predicate offences, terrorist financing investigations, prosecutions and other related proceedings.⁶⁹ And take rapid action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered.⁷⁰ Following the provisions of the money laundering act and the economic and financial crime commission act, it has been observed that Nigeria has complied to the recommendations of the FATF thereby applying them to the national laws.

The establishment of the FATF was facilitated by the Organisation for Economic Cooperation and Development Countries (OECD)⁷¹ in order to confront the menace of the phenomenon of money laundering and this succeeded in instigating proactive measures in combating money laundering. On the other hand, several countries have showed cooperation by enacting national laws precisely constructed to address the crime of money laundering within their jurisdiction as non-compliance of the FATF recommendations would lead to such country being blacklisted and rendered as posing high risk to the world's financial system.

INSTITUTIONAL FRAMEWORK IN COMBATING MONEY LAUNDERING

This chapter analyses the link between corruption and money laundering and also the functions and powers of the institutional framework with reference to the Economic and Financial Crime Commission, the Independent and Corrupt Practices Commission and the Nigeria Financial Intelligence Unit. This chapter views the challenges faced by these institutions in combating corruption and money laundering in addition to appraising the success and weakness of the anti-corruption agencies as well as the negative consequences and effects of such menace in the country.

⁶⁸ Rec 35.

⁶⁹ Rec 37.

⁷⁰ Rec 38.

⁷¹ An international economic organisation of 34 countries, to stimulate economic progress and world trade. It is a forum of countries describing themselves as committed to democracy and the market economy, providing a platform to compare policy experiences, seeking answers to common problems, identify good practices and coordinate domestic and international policies of its members. founded in 1961

THE LINK BETWEEN CORRUPTION AND MONEY LAUNDERING

Corruption as defined by the World Bank simply means abusing the public office for personal or private gain and this occurs when a public official accepts, solicits or extorts a bribe. Corruption ranges from political corruption to systemic corruption, grand corruption and petty corruption⁷². The independent corrupt practices and other related offences commission act defines corruption to mean offences that are related to bribery, fraud, abuse of power by extorting, inflating contracts, drug trafficking, sexual exploiting, embezzling, money laundering, illegal oil bunkering, pension funds scandals and so on.⁷³ Corruption is a big problem in Nigeria today which is caused by the system itself as a result of greed, inadequate legislative control, weak enforcement mechanisms, pressure from the society, desire for wealth whereby individuals want to get rich quick, poverty, unemployment etc. Corruption affects the nation as a whole; it damages the image and reputation of the country which makes it difficult for meaningful investments or developmental cooperation to be established. For example, during an event at the Buckingham Palace with the Queen of England which was attended by political leaders and other public figures, David Cameron the former prime minister of the United Kingdom, in a conversation with the Queen described Nigeria as ‘Fantastically Corrupt’⁷⁴. Transparency International (TI) ranks Nigeria as the 136th most corrupt country in the world and the 3rd most corrupt country in West Africa.⁷⁵ This is as a result of the lack of integrity, trust and credibility of the political institutions and the politicians themselves, lack of transparency and accountability, corrupt judiciary and the damaging lack of the political will by the government to confront this menace called corruption.⁷⁶ The failure to provide social amenities, the problem of power supply and lack of infrastructures, are all linked to corruption. This has affected the educational institutions to the extent that none of the universities in the country is rated among the best in Africa or the first two hundred (200) in the world, this is reason why most Nigerians leave the country to acquire a degree in a foreign country instead. Also the health sector is affected, as a result of insufficient medical facilities and infrastructures, people tend to travel to countries like India, United States of America (USA) for proper medical treatments while politicians are mostly treated by doctors in the United Kingdom(UK). It was reported that the President of Nigeria, Muhammadu Buhari recently visited the UK for an ear infection treatment. This goes as far to show the extent in which corruption has damaged the nation.⁷⁷ Corruption increases unemployment and under

⁷² The World Bank, Helping Countries Combat Corruption: The Role of the World Bank, Poverty Reduction and Economic Management Network, September 1997. See pages 19-20 on definitions of corruption.
<http://search.worldbank.org/all?qterm=corruption&os=40> accessed 24 April 2019

⁷³ S 2.

⁷⁴ David Cameron calls Nigeria and Afghanistan 'Fantastically Corrupt'<http://www.bbc.co.uk/news/uk-politics-36260193> accessed 16 April 2019

⁷⁵ Nigeria ranks 136th most corrupt country in latest global corruption index <http://leadership.ng/news/392876/nigeria-ranks-136th-corrupt-country-latest-global-corruption-index><http://www.transparency.org/cpi2014> accessed 16 April 2019.

⁷⁶ How Corrupt is Nigeria? <http://www.vanguardngr.com/2014/12/corrupt-nigeria/> accessed 16 April 2019.

⁷⁷ Nigeria's Buhari 'Broke Promise to End Medical Tourism'<http://www.bbc.co.uk/news/business-36468154> accessed 16 June 2016.

development and also causes mass poverty therefore breeding all kinds of crimes such as vandalism, armed robbery, kidnapping etc.⁷⁸

The link between corruption and money laundering is inevitable as the proceeds illegally obtained are often times laundered by the public officials also referred to as politically exposed persons (PEP) into foreign bank, offshore accounts, shell companies in offshore havens such as the Cayman Islands, Singapore, Hong Kong etc. in order to conceal anonymity, which are invested in obtaining luxurious mansions in different parts of the world such as the United States, United Kingdom, Switzerland etc., expensive cars, and have lavish lifestyles. This can also be referred as political corruption.

The United Nations Convention against Corruption defines PEPs as individuals who are or have been entrusted with prominent public functions and also includes their family members and close associates⁷⁹ The FATF gives further example of PEPS to include heads of state/ government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, political party officials, their family members related either through marriage or similar form of partnership, and their close associates connected either socially or professionally.⁸⁰ For example, the recent panama papers⁸¹ leak revealed some prominent Nigerians who are politically exposed persons, having links with off shore assets in British Virgin Islands, Hong Kong. They include; the senate president of Nigeria Bukola Saraki, the former senate president David Mark, a former delta state governor James Ibori who is currently serving term in a prison in London, a former Army Chief and Minister of Defence, Gen. Theophilus Danjuma (retd.), Africa's richest man, Alhaji Aliko Dangote and his cousin, Sayu Dantata.⁸²

THE ANTI CORRUPTION BODIES IN NIGERIA

This research will be focusing on the major anti-corruption bodies in Nigeria who have actively participated in eradicating the menace of corruption from the society. They include;

- The Economic and Financial Crime Commission
- The Independent and Corrupt Practices Commission
- The Nigerian Financial Intelligence Unit

⁷⁸ Corruption: 'A Case of Nigeria' <http://www.antigraft.org/cc-case/corruption-case-nigeria> accessed 17 April 2019

⁷⁹ Article 52.

⁸⁰ FATF Guidance, Politically Exposed Persons (Rec 12, 22) <http://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-PEP-Rec12-22.pdf> accessed 14 April 2019.

⁸¹ The Panama Papers are 11.5 million leaked documents that detail financial and attorney-client information for more than 214,488 offshore entities. The leaked documents were created by Panamanian law firm and corporate service provider Mossack Fonseca: some date back to the 1970s. The leaked documents illustrate how wealthy individuals, including public officials, are able to keep personal financial information private. While offshore business entities are often not illegal, reporters found that some of the Mossack Fonseca shell corporations were used for illegal purposes, including fraud, tax evasion, and evading international sanctions.

⁸² Panama Papers: 'Eminent Nigerians in Another Corruption Cesspool' <http://www.punchng.com/panama-papers-eminent-nigerians-in-another-corruption-cesspool/> accessed 21 May 2019.

THE ECONOMIC AND FINANCIAL CRIME COMMISSION

The Economic and Financial Crime Commission is an inter-agency commission which was established in 2003 by the former president of Nigeria president Olusegun Obasanjo and has been till date an arrow head in the fight against corruption in Nigeria. Economic and financial crimes include crimes that have a damaging effect on the economy and political system of the country which are committed with the aim of earning wealth illicitly. The agency has the power to prevent, investigate and prosecute offenders who engage in money laundering, corruption, abuse of office, capital market fraud, embezzlement, bribery, looting, illegal arms dealing, smuggling, illegal mining, tax evasion, foreign exchange malpractices which includes currency counterfeiting, intellectual property theft and other related offences.⁸³ The agency is also responsible for enforcing the provisions of other laws and regulations relating to economic and financial crimes, including the Economic and Financial Crimes Commission Act 2004, the Money Laundering Act 2004, the Advance Fee Fraud and other fraud related offences act, the Bank and Financial Institutions Act 1991, and Miscellaneous Offences act.⁸⁴ for identifying, tracing, freezing, conflicting or seizing proceeds derived from terrorist activities. Its main focus is to combat economic and financial crimes which also includes cases involving banks and other financial institutions such as issuance of forged cheques, negotiable instrument fraud, and also cybercrime, credit card scam etc.

The EFCC has been a notable and outstanding anti-corruption in Nigeria. It has recorded successes in convicting and sentencing individuals, including government officials, governors, ministers, senators who have been involved in such economic and financial crimes. With the help of several international policing and intelligence organisations such as the International Criminal Police Organization (INTERPOL), the Federal Bureau of Investigation (FBI), the United Nations Office on Drugs and Crime (UNODC) and also the Financial Action Task Force (FATF), the commission has made significant progress in dealing with money laundering and the recovery of assets.

The EFCC has impacted positively to the economy and the image in curbing out corruption from the country. Since the EFCC came into existence, it has overwhelmingly assisted in bringing back a little integrity, transparency and accountability in Nigeria. There have been over 5000 petitions, 2103 cases under investigations, more than 400 prosecutions, 2000 arrests and counting, a minimum number of 88 convictions from which several houses, cars, airplanes/private jets, oil tankers, properties and over Five Billion Dollars of cash and assets have been confiscated.⁸⁵ The agency has so far recovered more than Two Trillion Dollars (\$2,000,000,000,000) looted from the national treasury.⁸⁶

⁸³ Economic and Financial Crimes Commission Act 2004.

⁸⁴ The EFCC Website: Operations <https://efccnigeria.org/efcc/index.php/about-efcc/operations> accessed 24 May 2019.

⁸⁵ <https://efccnigeria.org/efcc/index.php/external-cooperation/eu-unodc-project-1> accessed 24 May, 2019.

⁸⁶ Money laundering: EFCC recovers looted \$2trn in 12 years <http://www.vanguardngr.com/2016/02/money-laundering-EFCC-recovers-looted-2trn-in-12-years/> accessed 17 May 2019.

The agency has addressed financial corruption by prosecuting and convicting a number of high profile corrupt individuals including government officials and bank executives. Out of thirty-six state governors, thirty-one of them and other politically exposed persons have been investigated for embezzlement and misappropriation of public funds, some of whom were arraigned such as Joshua Dariye, former governor of plateau state over multiple cases of money laundering, former governor of Abia Orji Uzor Kalu, the indictment of former governors Gbenga Daniel of Ogun state and Alao Akala of Oyo state. Some others include;

- The former governor of Bayelsa State, Late Diepreye Alameiyeseigha who was removed from office in 2005, he was under the custody of the EFCC after he was allegedly accused of money laundering in London. He was arraigned by the metropolitan London police in the Court in London after which he was granted bail, he fled to Nigeria where he was re-arrested and brought to court in Nigeria. In 2005, he was convicted and sentenced to two years' imprisonment.
- April 2008 the agency started an investigation on the very notable daughter of the former Nigerian president, Senator Iyabo Obasanjo-Bello for taking Ten Million Naira (\$100,000) stolen from the ministry of health. The former Health Minister and her deputy were at that time on trial for stealing over N30,000,000 (\$300,000) from
- the Ministry's allocation unspent from the past year but the case was later struck out by the court.⁸⁷
- EFCC's investigation also revealed that the former National Security Adviser(NSA) Mohammed Sambo Dasuki who is currently undergoing trial allegedly diverted funds about Two Billion, One Hundred Million Dollars (\$2,100,000,000), which was set aside for the nation's security and bought properties in foreign cities like Dubai and London thereby compromising the nation's security and endangering the lives of the Nigerian soldiers fighting the members of the Boko Haram sect⁸⁸ in the northern part of the country⁸⁹.
- Fifteen Billion Naira (#15,000,000,000) which was allegedly offered as bribe by the People Democratic Party(PDP)⁹⁰ to the electoral official (INEC)⁹¹ which involved bank executives, former ministers of state and also political officials in connection with the 2015 election has been recovered by the EFCC.

⁸⁷ Ayorinde Oluokan, 'EFCC, Courts and Prosecution of Corrupt Politicians' (25 December 2012)

http://www.ocnus.net/artman2/publish/Africa_8/EFCC-Courts-and-Prosecution-of-Corrupt-Politicians.shtml accessed 22 May 2019.

⁸⁸ An Islamic extremist group based in north-eastern Nigeria, also active in Chad, Niger and northern Cameroon. The group's leader is Abubakar Shekau. The group had alleged links to al-Qaeda, but in March 2015, it announced its allegiance to the Islamic State of Iraq and the Levant (ISIL). Since the current insurgency started in 2009, it has killed 20,000 and displaced 2.3 million from their homes and was ranked as the world's deadliest terror group by the Global Terrorism Index in 2015.

⁸⁹ Vincent Ehiabhi, 'EFCC Exposes What Dasuki Bought with \$2.1B Arms Fund' <https://www.naij.com/668448-dasukigate-efcc-exposes-dasuki-bought-arms-procurement-fund.html> accessed 19 May 2019

⁹⁰ The People's Democratic Party is a major contemporary political party in Nigeria. Its policies generally lie towards the centre-right of the political spectrum. It won every Presidential election between 1999 and 2011, and was until the 2015 elections, the governing party in the Fourth Republic.

⁹¹ The Independent National Electoral Commission (INEC), set up in 1998, is the electoral body which was set up to oversee elections in Nigeria.

- Seven Hundred Million Naira (#700,000,000) raw cash was found in the home of the former minister of petroleum, Diezani Alison Madueke who was also arrested last year in London for offences relating to bribery, corruption and money laundering.⁹²
- The agency is currently investigating the spokesman for the former president campaign organization, Femi Fani Kayode (former Minister of Aviation) over the receipt of public funds to the sum of Eight Hundred and Forty Million Naira (#840,000,000) in the heat of the last presidential election.⁹³
- The former director general of the Nigerian Maritime Administration and Safety agency (NIMASA) Raymond Omatseye was recently charged by the EFCC on a twenty-seven (27) count charge of alleged bid rigging and contract splitting and a contract scam worth One Billion Five Hundred Million Naira (#1,500,000,000) and is currently on trial.⁹⁴
- The Senate President (Bukola Saraki) and his deputy (Ike Ekweremadu) are currently on trial for the offence of criminal conspiracy and forgery of the senate standing rules.⁹⁵

The EFCC website also contains a list of country's most wanted criminals which includes among others; a former deputy governor of Osun State, Senator Iyiola Omisore in a case of receiving and misappropriating the sum of over Seven Hundred Million Naira (#700,000,000) from the Office of the National Security Adviser who has recently been arrested and is currently in their custody, also Ibrahim Saminu Turaki, the former governor of Jigawa State in connection with a case of criminal conspiracy, stealing, money laundering and misappropriation of public funds to the total of Thirty-Six Billion Naira (#36,000,000,000).⁹⁶

According to the information gathered by daily trust, the agency has also frozen over 281 bank accounts across the country in both existing and liquidated banks, some of which are being held on interim forfeiture while others have been decided in court and have secured a final forfeiture and the money has been given to the rightful owners. With the help of the United States Department of Justice, the US has resolved to return Four Hundred and Eighty Million Dollars (\$480,000,000) that was stolen by the former head of state General

⁹² Bassey Udo, 'Ex- Petroleum Minister, Diezani Alison-Madueke Arrested in London' (Premium Times 02 October, 2015) <http://www.premiumtimesng.com/news/headlines/190933-exclusive-ex-petroleum-minister-diezani-alison-madueke-arrested-in-london.html> accessed 18 May 2019.

⁹³ Soni Daniel, #840m Cash Receipt: EFCC Secures Remand Warrant to keep Femi Fani-Kayode (Vanguard, 10 May 2010) <http://www.vanguardngr.com/2016/05/breaking-news-n840m-cash-receipt-EFCC-secures-remand-warrant-keep-femi-fani-kayode/> accessed 18 May 2019.

⁹⁴ EFCC Intensifies Prosecution of Ex-Nimasa Bosses, Others (Vanguard, 10 May 2016) <http://www.vanguardngr.com/2016/05/efcc-intensifies-prosecution-ex-nimasa-bosses-others/> accessed 24 May 2019.

⁹⁵ Senate Rules Forgery: FG to Arraign Saraki, Ekweremadu Tomorrow <http://www.dailytrust.com.ng/news/general/senate-rules-forgery-fg-to-arraign-saraki-ekweremadu-tomorrow/151721.html> accessed 05 May 2019.

⁹⁶ <http://EFCCnigeria.org/EFCC/index.php/wanted> accessed 18 May 2019.

Sani Abacha and also the Swiss government has so far returned Seven Hundred and Twenty-Eight Million Dollars (\$728,000,000) of stolen funds from the Abacha's family.⁹⁷

The economic and financial crime commission has so far been successful in creating a regime of respect for the rule of law and an environment which is investment friendly for both the financial and industrial sectors of the economy. They have also improved the public awareness about the issues relating to corruption through the vehicle of an anti-corruption revolution campaign, which is an initiative designed to help the members of the society take ownership of the anti-graft campaign.⁹⁸

THE INDEPENDENT AND CORRUPT PRACTICES COMMISSION

In early 2002, the corruption index of the transparency international ranked Nigeria as the second most corrupt nation in the world. As a result of this and the resolve to fight and win the war against corruption, it led to the establishment of the commission. The main mission of the commission is to prohibit and prescribe punishment 'for corrupt practices and other related offences' and restore Nigeria to the enviable standard of respectability and dignity within the comity of nations⁹⁹. The ICPC is responsible for receiving and investigating reports of corruption and in appropriate cases prosecuting offenders, examining and enforcing the correction of corruption prone systems with a view to eliminate corruption in the public life and also creating an awareness by educating and enlightening the public about and against bribery, corruption and other related offences with a view to enlist and foster the support of the public for the fight against corruption.¹⁰⁰

The ICPC is conferred with special powers to investigate, search, seize and arrest. Although there were controversies about the commission in the past and this was shortly after it was established, as not until recently, no single top official was convicted notwithstanding its special powers. It has been observed that the commission's failure to secure conviction of corrupt officials was derived from the lack of sufficient political will, inadequate structures such as personnel, finance and also inefficient judiciary. At that time, despite the petitions and criminal matters standing trial in various designated courts, cases were either politicised or stalled in courts, while some were struck out on technical grounds. Therefore, it appeared that even though the ICPC prosecutes cases, the decay in the judiciary and financial limitations ensured there was no progress and as a result have so far failed to combat corruption effectively and efficiently especially among the political class.¹⁰¹

⁹⁷ Us to return \$480m Abacha looted to Nigeria <http://www.africareview.com/news/US-to-return-Abacha-loot-to-Nigeria/-/979180/3169252/-/r6llj1z/-/index.html> accessed 29 May 2019.

⁹⁸ Ifeyinwa Nzejekwu, 'The Contributions of EFCC in Promoting Financial Accountability and Transparency in Nigeria' (2011).

⁹⁹ Nigeria Independent Corrupt Practices and Other Related Offences Commission-A Brief Overview <http://www.icac.org.hk/news/issue17eng/button2.htm> accessed 18 May 2019.

¹⁰⁰ ICPC Act, S 6.

¹⁰¹ David Uchenna Enweremadu, 'The Struggle against Corruption in Nigeria; The Role of the National Anti-Corruption Commission (ICPC) under the Fourth Republic'.

The ICPC has recently diverted to investigating and making arrests on mostly public officials and members of the civil service. The commission has disclosed that it has also started taking into custody civil servants who live beyond their income. Some of which include;

- The commission has recently seized 61 houses from a female public servant.
- A senior manager of Calabar Free Trade Zone, a subsidiary of the Nigeria Export Processing Zones Authority (NEPZA) has been recently arraigned for an alleged fraud of Five Hundred and Seventy-Five Million Naira (#575,000,000), on a 10 count charge for knowingly holding private interest in contracts.
- A Civil Servant was recently sentenced to six (6) years' imprisonment for fraudulently receiving monthly emoluments from two federal government agencies.
- A Federal Pay Officer has been charged to court by the ICPC for allegedly diverting funds worth One Hundred and Three Million Naira (#103,000,000) meant for infrastructural development and meal subsidies of three federal government colleges through his personal company.
- A Five (5) year jail term for a former chairman of a local government in Ondo state for various corrupt acts while in office.
- ICPC has helped a retired regional manager recover over Four Million Naira (#4,000,000) delayed terminal benefits owed by an industrial company.
- A Legal Practitioner is currently under trial for forgery and falsification of land documents worth Ten Million Naira (#10,000,0000).
- A former Director- General of Nigeria Hydrological Services Agency (NIHSA), Mr. John Ayoade Shamonda, has been arraigned by the (ICPC) for an alleged mismanagement of Six Hundred and Three Million Naira (#603,000,000) intervention funds which was meant for rehabilitating and replacing of damaged hydrological equipment of the agency.¹⁰²

Although the ICPC prosecutes mostly civil servants, the commission has arraigned some politically exposed persons such as the former governorship candidate of Nasarawa state, Mr Yusuf Agabi for defrauding the federal government of Six Hundred and Sixty-Six Million Naira (#666,000,000) in the 2015 election and also the former Zamfara governor Ahmed Sani Rufai over the mismanagement of One Billion Naira (#1,000,000,0000 compensation funds for victims of collapsed Gusua Dam. In a recent interview, the chairman of the ICPC, Mr Ekpo Nta, made it clear that the commission make necessary efforts to seize the assets which have been acquired through corrupt means located both within and outside the country.¹⁰³

¹⁰² The Official Website of the Independent and Corrupt Practices Commission <http://icpc.gov.ng/icpc-news/> accessed 20 April 2019.

¹⁰³ <http://dailypost.ng/2016/04/16/corruption-icpc-seizes-62-houses-from-one-female-civil-servant/> accessed 21 April 2019.

THE NIGERIAN FINANCIAL INTELLIGENCE UNIT

During the 1990s Nigeria was regarded by the international community as an outcast not just because of its high level of money laundering but also because of advance fee fraud which was associated with many Nigerians. Due to the state of the affairs in the country at that time, it promoted the blacklisting of the country by the FATF as a non-cooperative country which had no legal and regulatory framework to tackle money laundering and terrorist financing. The NFIU was therefore established by the then President, Chief Olusegun Obasanjo in 2004 in fulfilment of the requirement by FATF.

The Nigerian Financial Intelligence Unit (NFIU) is the Nigerian arm of the global financial intelligence Units (FIUs) which is domiciled within the EFCC as an independent unit and operating in the African Region. The NFIU seeks to comply with international standards on combating Money Laundering and Financing of Terrorism and proliferation.

The NFIU is presently a member of the Egmont group of financial intelligence units¹⁰⁴ and the coordinating financial intelligence unit in west African sub region as it assists the intergovernmental action group against money laundering in west Africa (GIABA) in the enforcement of anti-money laundering and combating terrorist financing.

The NFIU is the coordinating entity for receiving and analysing of financial disclosure of currency transaction reports and suspicious transaction reports in line with Nigeria's anti-money laundering and combating of terrorist financing (AML/CFT) regime. The unit also distributes intelligence gathered to competent authorities.¹⁰⁵ The responsibilities of the NFIU are derived directly from the 2012 recommendations of the FATF¹⁰⁶ which is the global coordinating body for combating money laundering and terrorist financing and also from the EFCC Act 2004 and ML Act 2011 as both laws requires financial institutions and designated non-financial institutions to submit records of all financial transaction to the NFIU.¹⁰⁷ The unit has three central roles which include to receive, analyse financial intelligence and to disseminate such intelligence to end users. The NFIU also engages in ensuring compliance by reporting entities, enhancing the knowledge base of stakeholders and aiding anti money laundering and combating terrorist financing policy formulation. Also enhancing public awareness and understanding of matters relating to economic and financial crimes,

¹⁰⁴ The Egmont Group is the global body responsible for setting standards on best practices for FIUs and is made up of more than 131 FIUs from different jurisdictions. It was founded in 1995 to foster international collaboration in the exchange of intelligence by member states. It also supports and influences the work of FATF as it relates to the mandate of FIUs under FATF Recommendations 29 and 40. The NFIU, as a member of Egmont Group has reached out to other African FIUs by sponsoring and mentoring them to join the Egmont Group.

¹⁰⁵ Article 14 of the United Nations Convention Against Corruption (UNCAC) provides that Countries shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering

¹⁰⁶ The establishment of the NFIU is based on the requirements of Recommendation 29 of the Financial Action Task Force (FATF) Standards and Article 14 of United Nations Convention Against Corruption (UNCAC)

¹⁰⁷ The Money Laundering (Prohibition) Act 2011, S 25.

money laundering & financing of terrorist activities through newsletters, media, publications etc.¹⁰⁸ It is the duty of the NFIU to receive reports on cross-border movement of currency and monetary instruments, advise the government and regulatory authorities on prevention and combating of economic and financial crimes, maintaining a comprehensive financial intelligence database for collecting information, analysing and exchanging with counterparts FIUs and law enforcement agencies around the world and also providing information relating to the commission of an offence by entities and subjects linked to another jurisdiction to foreign financial intelligence unit based on the membership of Egmont Group or on the basis of bilateral cooperation.¹⁰⁹

WEAKNESSES IN THE ANTI CORRUPTION BODIES

The institutional weaknesses of the ICPC and EFCC are the very first set of stumbling blocks in the country's fight against corruption. From their acts of omission and commission, it is obvious that both the EFCC and ICPC are two separate bodies working independently. The EFCC is more effective and fearless as they prosecute top officials who are highly placed in the society but the ICPC seems slow to act and chase only civil servants. Both agencies were created for the purpose of handling cases related to corruption involving both at the private and public sectors. There are also constitutional constraints as the number of the convicted are quite small compared to the allegations brought. Due to the restraint in the judiciary and legal framework where by the 1999 constitution of the Federal Republic of Nigeria confers immunity on public office holders which includes the president, the vice president, state governors, deputy governors and as a result no criminal proceeding can be institute against them while in office neither can they be arrested or imprisoned, this has made it difficult to prosecute them. These public office holders commit economic and financial crimes and hide under immunity through their tenure which could last for four (4) years or eight (8) years on a second term.¹¹⁰ The building of a comprehensive database of corruption related cases is difficult because the anti-corruption agencies do not have the capacity for a systemic data collection. Also corruption has become politicised by the government in the sense that people who have been indicted or convicted are given state pardon for reasons of political expediency. A perfect example is the former governor of Bayelsa State, Diepreye Alamieyeseigha, who was pardoned by the former president, Goodluck Jonathan. All these constitute a restraint in the powers of the anti-corruption bodies.

¹⁰⁸ Nigerian Financial Intelligence Unit <https://efccnigeria.org/efcc/index.php/nfiu> accessed 19 June 2016.

¹⁰⁹ The Official Nigerian financial intelligence Unit website <http://www.nfiu.gov.ng/index.php/nfiu> accessed 19 April 2019.

¹¹⁰ Sheriff Folarin, 'Corruption, Politics and Governance in Nigeria' (2011).

CHALLENGES FACED IN COMBATING CORRUPTION IN NIGERIA

It is clearly evident that corruption is not out of the ordinary to Nigeria but it is a certain enterprise in the society and this is as a result of greed, unaccounted display of wealth by public officials which pushes the commoners in the society into corrupt behaviour in order to struggle for survival. The situation becomes more complicated because the system lacks the necessary mechanism to trace and prosecute the corrupt politicians due to ineffective sanctions, leading all efforts towards tackling the menace in vain. Becoming corrupt is almost impossible as it has been accepted as a norm, people struggle for survival without any form of assistance from the government, workers in the society are not paid regularly, the rich get richer and the poor continue to die in poverty.¹¹¹

There are so many challenges faced in combating corruption some of which are;

- *Lack of Political Will*; Political corruption takes place at the highest levels of political authority and this makes it easy to ‘control the controls’. An active political will is very essential for the fight against corruption which entails genuine commitment and effective good governance. The political will in a state may vary from time to time and this depends on the policies of the current administration or the following administration change. During the administration of Olusegun Obasanjo, the anti-corruption agencies were established and state governors were convicted under the chairmanship of Nuhu Ribadu. When a new president Umaru Yar’Adua was elected in 2007 there was a shift in the political will as a result of which led to the removal of Ribadu from office and the Attorney General of the Federation (Michael Aondoakaa) at that time allegedly used his powers to shield most of the corrupt politicians who amongst others included James Ibori, the former governor of delta state from ongoing international investigations into corruption related offences thereby blocking requests from the UK for mutual legal assistance. Effective cooperation resumed later on after the death of Yar’adua and the swearing in of a new president Goodluck Jonathan which then followed the appointment of a new federal attorney general.¹¹² With the current administration of president Muhammadu Buhari, Nigeria is in a better position now to end corruption given the active political will which exists and the determination necessary to support the anti-graft agencies who therefore should seize the moment and make every effort to take advantage of the existence of such political will.
- *Poor Enforcement System*; The lukewarm attitude of the officers charged with enforcing the laws which includes the judges, the police and other public officials is a challenge in combating corruption as most of them if not all are corrupt. The culprits are left off the hook once a bribe has been paid to them. A perfect example is the case of James Ibori who escaped justice and the numerous attempts made by the EFCC to prosecute him in Nigeria. It was revealed that he allegedly tried to bribe Ribadu with a cash sum of Fifteen Million Dollars (\$15,000,000) to drop the charges brought against him.

¹¹¹ Victor Dike, ‘Managing the challenges of corruption in Nigeria’ (2011).

¹¹² John Hatchard, ‘Combating Corruption’ *Legal Approaches to Supporting Good Governance and Integrity in Africa* (Edward Elgar 2013) 31.

When the case was finally brought before the Federal High Court Asaba in Delta State on the alleged corruption charges of One hundred and Seventy(170) counts, the judge dismissed the case on the grounds of insufficient evidence. Also in a recent case, the EFCC brought a suit against a Senior Advocate of Nigeria Chief Rickey Tarfa for allegedly bribing the Judge (Justice Mohammed Yunusa) handling a suit filed by him with a sum of Two Hundred and Twenty-Five Thousand Naira (#225,000) in attempt to obstruct justice.¹¹³ There was also the case of a former Inspector General of Police¹¹⁴, Tafa Balogun, who was arrested for using his office to embezzle \$128m dollars. This goes to show that the political leaders and public officials influence the judiciary, particularly at the state and local level and this leads to the lack of will to implement court decisions and an interference with due process.¹¹⁵

- *The Problem of Godfatherism*; Godfathers are referred to men who have power personally to determine both who gets nominated to contest the elections and who wins in a state¹¹⁶. The political godfathers build an array of individuals who are loyal to them and with their influence which is often monetary manipulate the rest of the society. In the bid to secure stable access to state resources and continued existence the godfather engages in electoral corruption thereby putting in all it takes be it money, violence, rigging of elections etc., to make sure his candidate wins. This is possible due to the weak civil society and electoral system, desperate office seekers and also greedy mass media who are willing to serve the interest of the highest bidders. Thereafter the election, the public officials show loyalty to only the godfather that put them in office by doing their dirty work and abusing the public office rather than the Nigerian state they promised to serve. The effect of this is that the citizens never get to chance to actually chose who they want to be their leader and the elections are not free and fair.¹¹⁷
- *Lack of Proper Taxing System*; The country lacks an effective taxing system and this therefore makes it difficult for the anti-corruption bodies to track down people's financial activities and it creates a suspicious ground for corruption as it is difficult to trace their financial activities when the public officials and politically exposed persons do not file their taxes. During the Halliburton scandal , a US oilfield service firm admitted that it gave a bribe of Two million Four Hundred thousand Dollars (\$2,400,000) to Nigerian tax officials through a Nigeria company (KBP Engineering Construction Company) to avoid paying taxes.¹¹⁸ There is the need for implementing laws that will enhance an appropriate and effective tax system where people in the society are made to explain the source of their

¹¹³ <http://www.vanguardngr.com/2016/02/rickey-tarfa-bribed-judge-with-n225000-efcc-alleges/> accessed 22 April 2019

¹¹⁴ Sheriff Folarin, 'Corruption, Politics and Governance in Nigeria' (2011).

¹¹⁵ US Department of State Report 'Human Rights 2011 Report' <<http://www.state.gov/j/drl/rls/hrrpt/2011/af/186229.htm>> accessed 23 April 2019.

¹¹⁶ The Rise of Nigeria's godfathers <http://news.bbc.co.uk/1/hi/world/africa/3156540.stm> accessed 22 May 2019.

¹¹⁷ Isaac Olawale Albert, 'Explaining Godfatherism in Nigerian Politics' 79-105 (African sociological review 2005).

¹¹⁸ Victor Dike, 'Managing the Challenges of Corruption in Nigeria (Vanguard May 27 2003).

income/ wealth and for audit departments of anti-corruption agencies to know how much exactly is made and also check for discrepancies¹¹⁹.

- *Lack of Transparency and Accountability*; The lack of transparency and accountability is insufficient in the society and this is a big issue in the fight against corruption. There is the need for transparency and accountability which is an important aspect as it ensures that every action and decision taken are made subject to scrutiny and transparency. A former minister of aviation Stella Oduah was sacked for the purchase of two (2) BMW bullet proof cars worth One Million Six Hundred Thousand Dollars (\$1,600,000) without following due process in their procurement and was in breach of the 2013 appropriation act.¹²⁰

In order to prevent abuse of power and ensure that power is directed towards achieving efficiency, effectiveness and transparency, accountability is very fundamental. Also transparency gives the citizens the opportunity to monitor the activities of the government thereby making it difficult for public officials to abuse their positions. The former governor of the Central Bank of Nigeria Sanusi Lamido in his fight against corruption was suspended from office by the former president Goodluck Jonathan, for exposing the Nigerian National Petroleum Corporation (NNPC) who were the president's associate for not remitting over Forty-Nine Billion Dollars (\$49,000,000,000) to the federation account.¹²¹ The checks and balances system are not strong enough and this leads to mismanagement of resources by government officials.

EFFECTS OF CORRUPTION IN NIGERIA

Corruption has a negative effect on the development of a country both socially, politically, environmentally and economically. It is necessary to deal with these before it becomes too much and difficult for the nation to get better. Corruption reduces the public spending because the public funds are transferred to the personal accounts of most of the public officials. This therefore reduces the provision of basic amenities and goods and services. The government venture into big projects which are difficult to manage and easily to defraud because of the lack of accountability such as construction of airports, highways, railways etc.

Corruption leads to poverty and income inequalities and this influences the masses to engage in other means in order to obtain wealth such as cybercrime, kidnapping, armed robbery etc., people also lose their lives because of the wasteful use of the money which is provided for nation when it is not channelled into useful expenditures. The government officials mismanage and embezzle funds which are provided for ensuring the necessary infrastructures are provided for the citizens. The government hospitals are ill equipped, lack of medical facilities and equipment, the hospitals are not up to standards, there are also bad roads which leads to

¹¹⁹ Chinelo Okekeocha, 'A Case Study of Corruption and Public Accountability in Nigeria' (2013).

¹²⁰ <http://www.vanguardngr.com/2014/04/n255m-bullet-proof-cars-efcc-grills-oduah-5-hours/> accessed 23 May 2019.

¹²¹ <http://www.vanguardngr.com/2014/02/mallam-sanusi-lamido-sanusi-sacked-cbn-governor/> accessed 22 May 2019.

accidents, poor drainage system which causes flood. Citizens suffer, not because the country cannot fund these project but because the people put in place diverts funds reserved into their own personal accounts.¹²² The issue of corruption with regards to money laundering leads to poor investment and this breeds unemployment in the country as companies that would have invested are afraid that the corrupt practices will ruin their businesses so they therefore invest in other countries. The recent crises in Nigeria as of today are as a result of corruption. A perfect example is the Boko Haram which has brought insecurity in the country and are still in operation till date and this has thus caused disorderliness and affected the economy of the country.¹²³ The banking sector is not left out as they also act as the instrument for the commission of these crimes because funds and transactions go through the banks.

Recommendations and Conclusion on Nigerian Money Laundering

This research has so far analysed the development of money laundering in Nigeria which became strongly marked during the administration of General Sani Abacha and how after his death, a new administration came into power which resulted in the election of President Olusegun Obasanjo who made it a priority to make every necessary effort that was needed to combat corruption in the country. This led to the amendment of the Money Laundering (Prohibition) Act and the establishment of the Economic and Financial Crimes Commission Act thereby ensuring that it was in accordance with the 2012 recommendations of the Financial Action Task Force. This research has also appraised the successes and weaknesses of the anti-corruption bodies, analysing the challenges faced in combating corruption and also the effect of such menace in the society.

This chapter would however provide recommendations and suggestions on how the Nigerian system can be improved. It would also suggest other means the anti-corruption bodies could keep up to standards thereby ensuring that corruption is dealt with effectively.

RECOMMENDATIONS

For every problem, there is a solution and I would propose certain recommendations and solutions that will be paramount in the fight against corruption and money laundering and will therefore assist in improving the system. Although the problems cannot be solved overnight as corruption has deeply eaten into the society, it will require all methods necessary to effectively control it.

Corrupt leaders cannot carry out effective war against corruption. Therefore, for such war to be carried out successfully, there is need for honesty, integrity, effective leadership and governance, transparency and accountability in any society. Accountability and transparency is very essential, the activities of the government and its official should be made open to the public, same also applies to their records except in

¹²² Chinelo Okekeocha, 'A Case Study of Corruption and Public Accountability in Nigeria' (2013) .

¹²³ Corruption in Nigeria: Review, Causes and Solutions <https://soapboxie.com/world-politics/Corruption-in-Nigeria> accessed 23 June 2016.

cases where it involves the security of the country. There's also the need for a proper checks and balances system, the audit department of the anti-corruption agencies should be given the authority to request that an account be rendered over any particular aspect of activity under the influence and control of the government. This will discourage the abuse of public privileges by political officials. Also in order to promote good governance there should be free access of information about economic conditions, budgets, government intentions, this creates a level of trust with the citizens and also influences investors to invest in the country.

The fight against corruption starts from the justice administrative system which includes the Nigerian police, the courts, the custom service, the immigration etc. The judiciary is perceived as one of the most corrupt institutions in Nigeria. In 2011, the US State Department reported that the judicial officials were bribed frequently to obtain a favourable judgement. The duty of the judiciary is to adjudicate but instead they allow trials to continue indefinitely while criminals continue with their corrupt practices. Since most of them are corrupt, I would suggest that the justice delivery system be replaced with a jury verdict system which would include men and women who are committed to the Nigerian system as there are better chances of ensuring justice is done and they can be trusted to be just to those who are found guilty of corruption and other related offences.¹²⁴ Also in agreement with the deputy senate president, Ike Ekweremadu on the issue of establishing a special anti-corruption court, I would recommend that a special court be established that would take charge of strictly corruption and other related offences as this will reduce the burden on regular courts and help in fast tracking trials on corruption cases thereby speeding up justice.¹²⁵

Another vital consideration is the increase of the minimum wage in the public sector. Although being paid poorly is not a reason for public officials to indulge in acts that constitute corruption, it does not offer a motivation for officials to do their job with honesty and efficiency. Salaries should also be paid without delays at the expected time, and there should be a reliable pension plan for the public officials, this way employees are confident that their future after retirement from the public sector is settled and this will increase productivity because this is one of the reasons most employees steal government money as they try to ensure a good economic security for their future.

The government needs to institute a competent procedure for hiring, training, promoting and rotating and laying off public officials, thereby eliminating nepotism and favouritism from the public sector. Most people are employed based on how they know rather than their qualification and this constitutes inefficiency and abuse of power.¹²⁶

There is a need for a reform in the 1999 constitution especially on the issue relating to immunity as this gives public office holders the opportunity to engage in corruption and other related offences without being

¹²⁴ Corruption: A Case of Nigeria <http://www.antigrift.org/cc-case/corruption-case-nigeria> accessed 27 May 2019.

¹²⁵ Ekweremadu calls for Special Anti-Corruption Courts <http://sunnewsonline.com/ekweremadu-calls-for-special-anti-corruption-courts/> accessed 25 May 2019.

¹²⁶ Chinelo Okekeocha, 'A Case Study of Corruption and Public Accountability in Nigeria' (2013)

sanctioned.¹²⁷ Although the immunity clause is provided in order to protect the president, governors and their deputies from vexatious and frivolous allegations, the immunity clause has been misused and taken for granted in the sense of bad governance and underdevelopment as it has been constantly used by political leaders to serve as a gateway for embezzling the nation's wealth without the fear that any action will be brought against them. This leads to the abuse of office as the constitutional immunity acts as a protective shield in their defence against allegations of corruption and money laundering. In as much as the constitutional immunity clause is important and absence of it would be abused by members of the public thereby distracting office holders from concentrating on the affairs of the state and efficiently carrying out all duties, I would recommend that the immunity covers only official acts of the office holders and should stop where there are issues and allegations against offences such as economic and financial crimes and corrupt practices.¹²⁸

As a result of this, there should be a review of the constitution which makes it mandatory for public office holders to be tried in the court of law for such offences committed while in office and the issue of godfatherism in politics and cases of elections should be tackled.

The ICPC and EFCC should be merged and work together as a group instead of acting as an independent body, this will thus harmonise their activities. The anti-corruption and law enforcement agencies should make necessary use of the political will which is obvious in the current administration. The agencies also need to create an inter-agency groups constituting personnel's who are trained and educated who would assist them in this fight. The public should not be left out and must be educated and made aware through the media, educational and religious workshops about the advantages of good governance and participate in promoting it. They should be informed about their right and empowered to monitor the government. There is also a need for educating the public about their voting rights, and political awareness as regards corruption and elections. In order to avoid unwarranted delays in proceedings, the need for an effective structure for a non-conviction based asset forfeiture law¹²⁹ is required, that way the anti-corruption agencies will be able to deprive criminals during the course of trial of their illicit wealth.¹³⁰ The agencies should be funded adequately with modern

¹²⁷ Section 308 of the Constitution of the Federal Republic of Nigeria as amended. 1999

¹²⁸ Akinwumi Ogunranti, 'Immunity Clause Under the Nigerian Constitution (as amended) 1999: A Curse or A Blessing' https://www.academia.edu/7941706/IMMUNITY_CLAUSE_UNDER_THE_NIGERIAN_1999-CONSTITUTION_AS_AMENDED_A_CURSE_OR_A_BLESSING accessed 24 May 2019.

¹²⁹ Art 54(1) UNCAC requires state parties to consider taking necessary measure to allow confiscation of property without a criminal conviction in cases where the offender cannot be prosecuted by reasons of death, flight, absence or in other appropriate cases. The conviction based asset recovery process includes proceedings which are directed against specific property that is believed to be the proceeds of corruption.

¹³⁰ According to Willis Hofmeyr, offenders smiled when they got a 15-20 year jail sentence which they regarded as an occupational hazard but literally burst into tears when they lost their rolls Royce, family home, and assets. Therefore, forfeiture was aimed at hurting and getting back at the criminals.

systems which should be employed as this would enable them conduct their affairs in a professional and transparent manner.

Necessary steps should be taken to ensure that all high level Nigerian official and their immediate family (husband, wife and children) declare and disclose all assets, in banks both local and foreign, real estates, companies or any personal assets. Individual depositors of huge sum of money should be properly scrutinized for sources of incomes as financial institutions are the platform which money launderers use to launder illegal acquired wealth.

There are so many unemployed graduates, the government should take necessary efforts in ensuring that more jobs are generated for the citizens to get employed and paid in return.¹³¹ The laws should also be reviewed to increase penalties for committing such offence which will serve as a deterrent to the public office holders from participating in corrupt acts and the rest of the public who attempts to participate in such act. The tax system also needs to be reformed as this will help reduce corruption.¹³²

CONCLUSION

Nigeria lacks one thing that every nation requires in order to achieve greatness and that is credible, responsible and people oriented leadership. The importance of an active and strong political will among the political leadership cannot be over emphasized as this is the most effective and efficient way in which corruption and the act of money laundering can be curbed out of the country. A perfect example is the current president of Nigeria, President Muhammadu Buhari who in just one year in office has made it his main mission to take out all corrupt leaders and recover all looted funds. All that is needed to end corruption and for the nation and its people to experience sustainable socio economic development is a positive change in the attitudes of the Nigerian leadership class.¹³³

¹³¹ Corruption in Nigeria: Review, Causes and Solution <https://soapboxie.com/world-politics/Corruption-in-Nigeria> accessed 29 May 2019.

¹³² Corruption and Poverty in Nigeria http://www.actionaidusa.org/sites/files/actionaid/pc_report_content.pdf accessed 06 July 2016

¹³³ Michael Ogbeidi, 'Political Leadership and Corruption in Nigeria since 1960: A Socio Economic Analysis' (Journal of Nigeria Studies Vol 1, No 2,2012).