

CONSTITUTIONAL AND THE INSTITUTIONAL FRAMEWORKS AS THE INSTRUMENTS FOR COMBATING CORRUPTION IN NIGERIA*

Abstract

This study examined the constitutional and institutional framework for anti-corruption crusade in the various public service sectors of the Federal Republic of Nigeria. It highlighted the major issues and challenges bedeviling the nation from the angle of corrupt practices, in Nigeria. The constant interference in the roles of these anti-corruption agencies which more often than not undermine the capacity and capability of carrying out their statutory functions independently is another factor that militates against the effective and efficient performance of some of these anti-corruption agencies. Likewise lack of fund also is another factor that hinders the agencies involved here in performing their assigned statutory roles as required under the law. In spite of all the efforts to curb corruption in the nation, Nigeria is still way behind in achieving this objective as corruption which is a menace to any nation is still lingering in the nation, thus causing great mere herm to various essential sectors of the economy of the country. On the side of the agencies in-charge of combating corruption, they leave much to be desired in that regard because corruption keeps eating deep into the fabrics of the nation. Regrettably, it seems that little or nothing can stop it. This work recommended that adequate funding of the various anti-corruption institutions, citizens active participation in the political processes of the nations and the independence of these institutions in carrying out their statutorily slated assignment in combating corruption without interference with one another will go a long way in curbing the menace in our nation.

Keywords: Constitutional, Institutional, Combating Corruption, Nigeria

1. Introduction

As a country in Africa, Nigeria is highly blessed with numerous mineral resources. However, despite this richness in mineral resources, she is still ranked as one of the developing countries in the world. The reason for this is not far-fetched, rather it is as a result of corruption bedeviling the nation. Also, in recent time, the country has held the unenviable record of being considered as a corrupt country among the countries surveyed¹. As a cankerworm that has eaten deep into our society, corruption has been seen by many as a valid norm in our society. It has become so prevalent in Nigeria to the extent that one could wonder if it can be easily curbed. The reason for this belief is because it is a malignant tumor, a cancer that eats its host to death² It is a well known fact that corruption is a global menace and not only exclusively practiced in Nigeria, however, it adversely affects Nigeria as a developing country. Although there are different laws and institutions that have been enacted and setup to curb this menace, it still rears its ugly head more especially in public sector in Nigeria. Under the section 15(5) of the *Constitution of the Federal Republic of Nigeria, 1999 (as amended)*, from the angle of Fundamental Objectives and Directive Principle of State Policy, there is a requirement that the State should abolish corrupt practices and abuse of power. In addition to the 1999 Constitution, there are other laws and regulations that have been enacted to fight corruption.³ Again, there are also some institutions that have been carved out through legislations to ensure that corruption as a cankerworm bedeviling Nigeria as a nation is reduced astronomically.

2. Clarification of Terms

Corruption: Corruption has been defined by many writers in different ways. As a term, there is no universally adopted definition of the concept as it has been viewed differently by different writers and authorities. No wonder, the Political Bureau setup by President Ibrahim Badamasu Babangida posited on the magnitude of corruption in Nigeria thus:

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¹ Transparency International, 'Transparency International Corruption perception Index (1999– 005) www.document available at <http://www.transparency.org/policy-research-surveys-indices> (CPC, accessed on October, 3, 2004 at 2:00pm cited in MM, Nwobodo, ' An Appraisal of the Legal and Institutional Framework for Anti-Corruption Crusade in Nigeria', Being an LL.B work submitted to Faculty of Law ESUT October 2024. 1.

² O A Yusuf, *Anatomy of Corruption in Nigeria*, (Ibadan; Inee Printed Limited)15.

³ Examples are: *The Penal Code Act* which does Prohibit the demanding and receiving of bribe by Public Officers; *The Criminal Code Act*; *The Corrupt Practices and Other Related Offences Act* which lead to the establishment of the Independent Practices Commission (I.C.P.C.), prohibits Corrupt Practices and unjust enrichment. Again, is the Economic and Financial Crimes Commission (EFCC) Act, which established Economic and Financial Crimes Commission with the responsibility combating economic and financial crimes and also to investigate, Prosecute and Penalize economic and financial crimes.

Corruption pervades all strata of the society. From the highest level of the political and business elites to the ordinary person in the village. Its multifarious, manifestation includes the inflation of government contracts in return for kickbacks; fraud and falsification of accounts. In the public services, examination malpractice in our educational institutions including universities; the taking of bribes and perversion of justice among the police, the judiciary, and other various heinous crimes against the state in business and industrial sectors of the economy, in collusion with multinational companies such as over-invoicing of goods, foreign exchange, hoarding and smuggling. At village level, corruption manifests itself in such form as adulterations of market goods or denting of measures to reduce their contents with a view to giving advantage to the sellers.⁴

In the words of *Black's Law Dictionary*⁵, corruption is seen as depravity perversion or taint, an impairment of integrity, virtue or moral principle, especially the impairment of a public official's duties by bribery. On another note, it has been viewed as the perversion of integrity or state of affairs through bribery, favour or moral depravity⁶. According to Bairaman J⁷ corruption implies the receiving or offering of some benefits as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his duties. According the United States vision 2010 Committee; Corruption is conceptualized and listed in sixteen forms through which it manifests itself in Nigeria (111th Congress, Second Session 2010) as follows:

These manifestations include: advance fee fraud (also known as 419), bribery, extortion, nepotism, favouritism, inflation of contracts, falsifications of accounts perversion of justice, by organs administering justice, tax evasion, smuggling and racketeering, money laundering, hoarding/adulteration of market goods and denting of measures to reduce their content with a view to giving advantage to the vendor, abuse of office, foreign exchange, swindling and drug trafficking, heinous economic crimes against the state (most of the time in collusion with multinational companies and foreigners), examination malpractices and election malpractices⁸.

In line with the views espoused above on corruption, it is our views that corruption is the process or procedure where by a person offers another gratification whether in kind or in cash in order to pacify him or her to be granted an unmerited favour. It is in line with the issue of corruption bedeviling the society that section 7 of *Corrupt Practices and Other Related Offences Act* highlighted the following offence⁹ highlighted the following offences¹⁰. Notwithstanding that the purpose of the gratification was not carried out or matter not in relation to principal's affairs of business, fraudulent acquisition of property, offences committed through postal system, deliberate frustration of investigations, making false statement in return, gratifications by and through agents, bribery of public officers, using office or position for gratification, bribery in relation to auctions, bribery by giving assistance with regards to contracts.

Constitution

A constitution is regarded as the fundamental law of a nation that governs the nations in totality, it also oversees the running of the affairs of the three independent organs of the government¹¹. A constitution provides for fundamental rights of the individuals in the society,¹² it also provides for the procedure of its amendment.¹³ It could equally be viewed as a body of law that governs a nation, a state or a country, being the Supreme law of the

⁴ T. S. Wilfred, *Towards a Corruption Free Democratic Society*, (Enugu: Vougassen Ltd, 2000) 15. Cited in MM Nwobodo note 2.

⁵ M M Nwobodo note 3

⁶ U V Awhefeada, 'A Review of Constitutional Safeguards for Anti-Corruption in Nigeria', *International Journal of Law and Society*, Vol.6, No. 2, 2023, 130.

⁷ *Biobaku v Police* (1951) 20 NLR 30. It is a well known fact that the Definition of Corruption in Biobaku's case has been broaden today to incorporate other forms of benefits such as sexual favour, admission into clubs, societies and conferment of chieftaincy title. It has clearly been demonstrated that corruption has festered even in non-public sector. This position was equally cited in v Awhefeada *Ibid*.

⁸ F. Sesom, 'Constitutional Immunity Clouse and Fight against Corruption in Nigeria', *Journal of Sustainable Development Law and Policy* Vol 8, No. 2, 2017. 155-156.

⁹ *Corrupt Practices and Other Related Offences Act*, Laws of the Federation of Nigeria, 2000.

¹⁰ Offence of accepting gratification, offence of giving and accepting gratification, through an agent, accepting and giving of gratification to be guilty.

¹¹ See Section 4 on the Legislative Powers of both the State and the Federation. Section 5 of the 1999 Constitution which centres on the Executive Powers of the State and the Federation and Section 6 of the same which is on the Judicial Powers of both the State and the Federation.

¹² Chapter 4 of the 1999 Constitution of The Federal Republic of Nigeria (as amended).

¹³ See Sections 8 and 9 of the 1999 Constitution *Ibid*.

land¹⁴ and also the law that is above all other legislations in the nation, state or country¹⁵. It is in line with this position on the meaning of the word constitution that the Supreme Court of the United States of America posits that 'Constitution' is the greatest improvement on political institution¹⁶. Wheare¹⁷ in his *magnus opus* postulates that:

Until the time of American and French revolutions, a section or collection of fundamental principle was not usually called the 'Constitution ... Since that time the practice of having a written document containing the principle of government organisation has become well established, and Constitution has come to have the meaning.

To Niki Tobi JSC¹⁸ Constitution as an expression means thus:

The Constitution is the *fons et origo*, not only of the jurisprudence but also of the legal system of the nation. It is the legal system of a nation. It is the beginning and the end of the legal system. In Greek language, it is the *Alpha and Omega*. It is the barometer with which all statutes are measured. In line with this kindly position of the Constitution, all the three arms of the government are slaves of the undergoing servitude or bondage, but in sense of total obeisance and loyalty to it. This is in recognition of the Supremacy of the Constitution over and above every statute be it an Act of National Assembly or law of the State House of Assembly of a state¹⁹

In another judicial definition by Onnoghen JSC²⁰ both the import and function of a constitution was stated clearly in the following words:

It is settled law that the constitution of any country is what is usually called the organic law or grundnorm of the people. It contains all the laws from which the institutions of state derive their creation, legitimacy and very being. The Constitution is also the unifying force in the nation apportioning rights and imposing obligations on the people who are subject to its operation. It is a very important composite document.

Having said so, we are in agreement with these views as the constitution is the organic law of the land which is used to govern the entire nation.

3. The 1999 Constitution and Institutional Frameworks Combating Corruptions in Nigeria Democracy.

Auditing and Auditor General of the Federation: Accordingly, the effects of sections 85 and 125²¹ make the office of the Auditor General a safeguard to combat corruption in Nigeria. The main reason behind auditing process is to monitor the spending of public funds and also to ensure that the expenditures are in compliance with the budget. According to sections 85 (6) and 125 (6)²² the Auditor General is the arrow head in the exercise of his duties and he enjoys rigid security of tenure²³. It is the provision of the law that the Auditor General must lay before the legislature the periodic report generated by him. The National Assembly must refer such report to the Public Account Committee for thorough examination and recommendations.²⁴ It is also a well known fact that the Constitution²⁵ did not expressly state the accurate time that the Auditor General should submit such report to the National Assembly. However, it is recommended that the role of drafting and submitting such reports ought to be made mandatory and equally backed up with sanction should the report be not submitted within a stipulated timeframe under the law. It should also be made available to the general public for a debate on it. In doing this, it will help in reducing the clash of interest between the legislative and executive arms of the government.²⁶

¹⁴ See also Section 1 (1) of the same.

¹⁵ See also Section 1 (3) of the same.

¹⁶ *Marbury v Madison* 5 US 154 (1806).

¹⁷ K C Wheare, *Modern Constitution*, 1996. Cited in E. Malemi, *Nigeria Constitutional Law (Ikeja Lagos: Priceton Publishing Co, 2006) 17*.

¹⁸ *Attorney General of Abia State v Attorney General of the Federation* (2006) 16. NWLR (Pt 1050) pp381-382.

¹⁹ Section 1 (3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) already in note 15.

²⁰ (2007) 8 NWLR (Pt 1036) 332 at 4110412. See also E. O. Bonaventure and I. O Igwe, Critically Examine the Role of the Judiciary in the Sustenance of Nascent Democracy in Nigeria being a Seminar Paper Presented at Faculty of Law, Ebonyi State University, Abakaliki, 2009. 3.

²¹ Constitution of the Federal Republic of Nigeria, 1999 (as amended).

²² Of the same Constitution.

²³ Rule 9 (1) e, (2) (3) and (4) of the Standing Rules of the House of Representative; M M Nwobodo *Ibid*.

²⁴ U V Awhefeada, 'A Review of Constitutional Safeguards for Anti-Corruption in Nigeria', *International Journal of Law and Society*, Vol.6, No. 2, 2023, 130 – 143 Cited in M M Nwobodo *Ibid*.

²⁵ Constitution of The Federal Republic of Nigeria 1999 (As amended).

²⁶ U V Awhefeada note 130-143.

The Nigeria Police Force: The Nigeria Police is one of the units of the armed forces which is established to ensure the maintenance of law and order. According to *Black's Law Dictionary*²⁷, 'Police' is regarded as the branch or department of government saddle with the responsibility of preserving order and tranquility, enforcing laws, promoting public health, safety and morals, preventing and detecting crimes. Accordingly, the police is established by the Constitution²⁸. The Police Force as a unit of the Armed Forces is headed by the Inspector General of Police who is appointed by the President on the Advice the Nigerian Police Council from among the serving members of the Nigerian Police Force²⁹. The Nigeria Police Council is chaired by the President and it comprises the thirty-six State Governors, the Chairman of the Police Service Commission and the Inspector General of Police³⁰. The functions of the Nigerian Police Council shall include the organization and administration of Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of the members of the Force), the general supervision of the Nigeria Police Force and advising the President on the appointment of the Inspector General of Police³¹.

With respect to matters of appointment, discipline and dismissal within the Nigeria Police Force, it is within the whims and caprices of the Police Service Commission which comprises of a Chairman who is equally the Chief Executive of the Commission, a retired justice, of the Supreme of the Commission, a retired justice of the Supreme Court or Court of Appeal, a retired Police Officer not below the rank of Commissioner of Police, a representative each of women interest, Nigerian press, non-governmental human rights organisation in Nigeria, organised private sector and a secretary to the commission³².

These members who are appointed by the President subject to the ratification of are expected to be persons of proven integrity and ability. Also, any of the members of the Police Service Commission could be removed from office by the office of the President if he is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office³³. This provision of the Constitution has put the independence of the Police Service Commission to question. It is not in the interest of the Commission members of the Commission to be removed at will by the President.

According to the Constitution,³⁴ the Police is under the command of the Inspector General of Police. Also, subject to the authority of the Inspector General of Police Force contingents of Nigeria Police Force stationed in any of the 36 states of the Federation are under the command of the Commissioner of Police of each State.³⁵ The President or such Minister of the Government of the Federation as he may authorize in that behalf may give to the Inspector General of Police such a lawful directions with respect to the maintenance of and security of public safety, and public order as he may consider necessary and the Inspector General of Police shall comply with those directions or cause them to be complied with.³⁶ This puts the entire Police Force under the full control by the President or any Minister he authorizes in that behalf. This organogram of commands makes it too difficult for any Police Officer, Police Commissioner or Inspector General of Police for that matter to investigate or prosecute any allegation of corruption without some form of political interference from the presidency, a government minister responsible for Police affairs or a State Governor once they have interest in such matter or allegation.

Another cardinal point on the operational and structural independence of the Nigerian Police Force is that it does not have the competence to regulate crucial aspects of its internal affairs. For example, matters of appointment, discipline and dismissal within the Force is under the competence of the Nigeria Police service Commission which

²⁷ *Black's Law Dictionary 5th Edition*, (Minnesota: West Publishing Co., 1999) 104.

²⁸ See Section 2 (1) of the Police Service Commission Act, 2001, see paragraph 29 Of the Third Schedule to the Constitution M M Nwobodo note 41.

²⁹ See Section 215(1) of the 1999 Constitution of The Federal Republic of Nigeria (as amended) (34) I O Igwe, 'How are Administrative Agencies such as the Police Army and Public Corporations Controlled under the Nigerian Law,' being An LL.M Seminar Paper Submitted to Faculty of Law, Ebonyi State University, Abakaliki, 2009. 14; G.E. Ngwu, An Appraisal of Police Control under Nigeria Constitution, *University of Port-Harcourt Journal of Faculty of Law*, Volume 9, Number 1, 2000. 122-123.

³⁰ I. O. Igwe, 'How are Administrative Agencies such as the Police, Army and Public Corporations controlled under the Nigerian Law Being An LL.M Seminar Paper submitted to Faculty of Law Ebonyi State University, Abakaliki, 2009 14; G. E. Ngwu, An Appraisal of police Control under Nigerian Constitution, *University of Port-Harcourt Journal of Faculty of Law*, Volume 9, Number 1, 2000 122-123.

³¹Section 215 (2) of the 1999 Constitution of the Federal Republic of Nigeria, (as amended).

³² Section 2 (1) the Police Service Commission Act, 2001, see paragraph 29 Of the Third Schedule to the Constitution.

³³ See I. O. Igwe note 16.

³⁴ See Section 215 (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). M M Nwobodo note 41.

³⁵See Paragraph 27 of the Third Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

³⁶ The Police Service Commission Act, Laws of the Federation of Nigeria, 2001.

is a body that comprises of persons who are not members of the Force³⁷ Again, the Inspector General of Police is appointed and may be removed at will by the President on the advice of the Nigeria Police Council³⁸. There is no requirement for legislative confirmation either during appointment or removal of the Inspector General of Police. Another issue here is that the Nigeria Police Council comprises of the President as the Chairman and the thirty-six Governors of the States as this arrangement makes it difficult to expect the Police to take any serious or independent action against corrupt practices emanating from any of these Chief Executives where necessary. It also makes it impossible for the Police to be proactive when it comes to be against corrupt politicians generally, except the action is favourable to the members of the political class. It is a well a well known fact that the Police Service Commission Act³⁹ contains several provisions guarantying the independence of the Police Service Commission, the independence remains largely symbolic so long as the Inspector General who commands the entire Police force holds office at the mercy of the President⁴⁰. Equally of note is that the Police Service Commission is not a law enforcement agency. An independent Police Service Commission without an equally independent Nigeria Police Force implies nothing for the anti-corruption war. This explains the recurrent police inactions in the face of executive lawlessness and massive corruption allegations amongst some politicians.

The Judiciary: The judiciary is the branch of the government that is made up of Judges, Magistrates, Kadis and other adjudicators, that the constitution saddles with the responsibility of interpreting, construing and applying the laws of the land in the resolution of conflicts and disputes. According to H.C. Black,⁴¹ the word judiciary is referred to as the branch of government invested with the judicial power, the system of courts in a country; the body of judges; the branch of government which is intended to interpret, construe and apply the law. Also, Igwenyi⁴², in his *magnus opus* posits that the expression judiciary means the following:

Hence when we talk about the 'judiciary' it covers the personal and institutions through which the laws of the country are interpreted in the determination of rights and obligations of the citizens as well as that of the government. It is said to be the last hope of common man in whatever system of government that is in place.

It is also apposite to state that the judiciary, or judicature or judicial arm of the government is the third arm amongst three arms of the government,⁴³ after the legislature and the executive arm which are decorated and also accorded with the constitutional powers of interpreting the Constitution, the laws made by the legislature and the legislations of the executive arms of the government and the bye laws enacted by the local government councils⁴⁴. It is also its function to deliver judgments which will be binding on all the subjects to the law including herself based on the interpretations of these laws⁴⁵. In the eruditions of Ocheoha⁴⁶, judiciary is described as follows:

The judicature or judiciary arm of government which interprets the laws passed by the legislature and applies them in the adjudication of cases brought before the courts and tribunals by individuals, groups and different tiers of government.

The judiciary in line with the tripartite arrangement of separation of powers of the government is the third arm that is in control of adjudication of cases in the courts of law. The 1999 Constitution⁴⁷ vests the judicial powers of the Federation and the states in the courts established for the federation and states respectively These courts are enumerated in the Constitutions⁴⁸ as follows:

- a. The Supreme Court of Nigeria.

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³⁸ H. C. Black, *Black Law Dictionary*, (United States of America: St. Paul Minn West Publication Co, 1990). Cited in G. E. Ngwu, et al, 'The Role of the Judiciary in Interpreting *Locus Standi* in Environmental Pollution in Nigeria, *Paradigm Academic Press, Law and Economy* vol. 2, No. 10 6.

³⁹ *The Police Service Commission Act, Laws of the Federation of Nigeria, 2001*.

⁴⁰ M M Nwobodo note 42.

⁴¹ H. C. Black, *Black Law Dictionary*, (United States of America: St. Paul Minn West Publication Co, 1990). Cited in G. E. Ngwu, et al, 'The Role of the Judiciary in Interpreting *Locus Standi* in Environmental Pollution in Nigeria, *Paradigm Academic Press, Law and Economy* vol. 2, No. 10 6.

⁴² B. O. Igwenyi, *Modern Constitution Law in Nigeria* (Abakaliki: Nwamazi Printing and Publication Co. Ltd, 2006). Cited in G.E. Ngwu et al note 7.

⁴³ G.E. Ngwu *ibid*.

⁴⁴ G.E. Ngwu *et al ibid*.

⁴⁵ G.E. Ngwu *et al ibid*.

⁴⁶ O. O. Cheoha, 'An Appraisal of the Application of the Doctrine of the Doctrine of Separation of Powers in USA, Australia and Nigeria, being an LL.M Seminar Paper Presented at Faculty of Law Ebonyi State University, Abakaliki, 2009 2 in G. E. Ngwu and M. O. Ugwu. 'Locus Standi and Fundamental Right Enforcement under Nigeria Constitution: The Role of the Judiciary', *International Administration, Volume 8, Issue 5, 2024* 84.

⁴⁷ See Section 6 (1) and (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁴⁸ See Section 6 (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

- b. The Court of Appeal with several divisions.
- c. The Federal High Court also with divisions.
- d. The National Industrial Court
- e. The High Court of the Federal Capital territory, Abuja
- f. A High Court of the State
- g. The Sharia Court of the Federal Capital Territory, Abuja
- h. A Sharia Court of Appeal of a State
- i. The Customary Court of Appeal of the Federal Capital Territory
- j. Customary Court of Appeal of a State

Such other as may be authorized by law to exercise jurisdiction at first instance, or on appeal to which the National Assembly may make laws.

The powers, functions and responsibility of the judicial arm of government to uphold the tents of the constitution and to ensure an effective and efficient compliance by everybody and authorities within Nigeria is enunciated in the constitution⁴⁹ itself under section 6 (6) which provides that such powers:

- a. Shall extend notwithstanding anything to the contrary in the Constitution to all inherent powers and sanctions of a court of law;
- b. Shall extend to all maters between person in Nigeria and all actions and obligations of that person;
- c. Shall not, except as otherwise provided for by this Constitution, extend to any issue or question as to whether any act or omission by authority or a person, or as to whether any law or any judicial decision is in conformity with the Fundamental objective and Directive Principle of State Policy set out in Chapter II of the Constitution.
- d. Shall not as from the date when this section comes into force to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make such law.

From the foregoing, it is evident that the primary role of the judicial arm of the government is interpretation and application of the laws in other to ensure effective and efficient resolution of conflicts between man and man and also between the government, groups, organizations and agencies. It is equally a well known fact that the judiciary in a bid to carry out her functions reviews government actions and equally protects human rights and ensure the maintenance of rule of law. The role of the judiciary in the fight against corruption revolves around the application of the various provisions of laws contained in the Independence Corrupt Practices Commissions and Other Related Offences Act⁵⁰, the Economic Financial Crimes Commission Act⁵¹, Penal code⁵², Criminal Code⁵³ and a host of other legislations that are antithetical to fraudulent and economic crimes with respect to other cases brought before the courts.

The investigation of crime, arrest of alleged offenders, their prosecution and punishments occur within the confines of the criminal justice system, of which the judiciary is the anchor point because it has a role of deciding whether to convict or acquit a person that is under a trail for corrupt allegations⁵⁴.

The Code of Conduct Bureau and Tribunal: The Code of Conduct Bureau is one of the anti-corruption agencies established to investigation and ensure prevention of crime in public offices and the Code of Conduct prohibits the President, Vice President, Governors, Deputy Governors, Ministers, Commissioners and Members of National Assembly and State House of Assembly and such other officers as prescribed by the National Assembly from maintaining and operating foreign bank account⁵⁵. Also the Constitution empowers the Code of Conduct Bureau with the authority with respect to declarations of public officers assets under paragraph 12, part 1 of the fifth schedule to the Constitution⁵⁶ to examine the declaration in accordance with the requirement of the Code of Conduct or any other law, retain custody of such declarations and make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe ensure compliance with and, where appropriate enforce the provisions of Code of Conduct or any law relating thereto, investigate the

⁴⁹Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁵⁰ Independent Corrupt Practice and Other Related Offences Commission Act, Law of the Federation of Nigeria, 2004.

⁵¹Economic and Financial Crimes Commission Act, Laws of the Federation of Nigeria, 2004.

⁵²Penal Code Act, Laws of Federation of Nigeria, 2004.

⁵³Criminal Code Act, Laws of Federation of Nigeria, 2004

⁵⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁵⁵ See Paragraph 3 of the Third Schedule to the Constitution of the 1999 Constitution of the Federal Republic of Nigeria 1999 (as amended) Paragraph 12 of Part 1 of the Fifth Seclude Schedule to the 1999 Constitution *ibid*.

complaint and, where appropriate may refer such complaint to Code of Conduct disciplinary control over staff of Code of Conduct Bureau in accordance with the provisions of the Act of the National Assembly enacted in that behalf, carry out other functions as may be conferred upon it by the National Assembly.⁵⁷ Again, it is a well known fact that the Constitution is the legislation that Created the Code of Conduct Tribunal⁵⁸ the officers who man such offices and also who engage in corrupt practice. No wonder the court posited in *Sharika and Sons Ltd v. The Governor of Kaduna State and Ors*⁵⁹ that public officers are not limited to human persons or persons said in their personal names, it equally includes an artificial person, that is public bodies or body corporate or incorporate statutory bodies or persons.

The Code of Conduct *Bureau and Tribunal Act*⁶⁰ complements the provisions of the third and fifth schedule to the Constitutions⁶¹ the Constitution⁶² through these schedules established the Code of Conduct tribunals as extra ministerial agencies purposely created to ensure an effective and efficient prevention of crimes in respective public officers in the federation. The Code of Conduct and Bureau Act gave the Code of Conduct Bureau the authority to establish and maintain a high standard of morality in the conduct of government affairs and also ensures that all actions and behaviours of public officers are in line with the highest standard of ethics and public morality and accountability⁶³. It is the requirement of the Code of Conduct that a public officer must abstain from putting himself in a position where his personal interest will conflict with his official duties.⁶⁴

At any point in time any public officer contravenes any provision of the Code of Conduct, the Code of Conduct Tribunal may impose sanction to such public officer as stipulated by the law regulating it⁶⁵ in *Ahmed v Ahmed, and Ors*,⁶⁶ the Supreme Court was of the views that the Code of Conduct Tribunal has the exclusive jurisdiction to entertain matters partnering to Code of Conduct Bureau. In a similar vein, the Court of Appeal posited in *Joshua Gulting v Tunyang Davwang*⁶⁷ that the court does not have the jurisdiction to entertain any issue boarding on breach of Code of Conduct against the respondent. In line with punishment of any erring public officer, the jurisdiction is in the hands of the Code of Conduct Tribunal.⁶⁸

Public Complaint Commission: This is an independent body or organization created by the Federal Government through the instrumentality of Decree 31 of 1975, which was later amended by Decree 21 of 1979. Through entrenchment, the Decree got entrenched in the Constitution of the Federal Republic of Nigeria, 1979, and toady we have the Public Complaint Commission Act. The establishment of the Commission is also enshrined in the Constitution of 1999⁶⁹ The Commission is headed by a Chief Commissioner and such other number of Commissioners as the National Assembly may from time to time determine⁷⁰. The Commission may establish such number of branches in the states of the Federation as the National Assembly may determine⁷¹. It is the cardinal responsibility of the Commission to investigate complaints brought before it by members of the public in respect of any administrative action taken by the Federal, State or Local Government, public institutions and private companies whether in public or private sector and any aforementioned body. Additionally, it is also the commission's role to perform the following:

- i. Interpret the policy and advise the government and organisation on proper course of action.
- ii. Investigate administrative procedures of any court of law in Nigeria⁷² and also make recommendations after investigation to appropriate and responsible authorities.
- iii. The Commission also acts as a whistle blower through reporting crimes discovered in the process of its investigation to appropriate law enforcement agencies. The Public Complaint Commission also has authority to prosecute offenders who block the Commission against its

⁵⁷ See Paragraph 3 of the Third Schedule to the Constitution of the 1999 Constitution of The Federal Republic of Nigeria (As amended): Paragraph 12 of Part 1 of the Fifth Schedule to the 1999 Constitution ibdi.

⁵⁸ Paragraph 15 of the Fifth Schedule to the Constitution of the 1999 Constitution ibdi.

⁵⁹(2013) LPELR-20379 (CA).

⁶⁰Cap C 15 Laws of the Federation of Nigeria, 2004.

⁶¹ The Constitution of the 1999 Constitution of the Federal Republic of Nigeria (As amended).

⁶² Ibid.

⁶³ See Section 2 of the Code of Conduct Bureau and Tribunal Act

⁶⁴ See Section 5 of the Code of Conduct Bureau and Tribunal Act

⁶⁵ (2013) LPELR 21143 (SC).

⁶⁶ (2013) LPELR 21921 (CA).

⁶⁷ Constitution of the Federal Republic of Nigeria (as amended). Section 315 (5).

⁶⁸ Paragraph 15 of the Fifth Schedule to the 1999 Constitution ibid

⁶⁹ See section 1 (1) of the Public Complaint Commission Act 2004

⁷⁰ See section 1 (2) of the Public Complaint Commission Act 2004.

⁷¹ See Section 5 (3) e of the Public Complaint Commission Act 2004

investigative role for offences created under the Public Complaint Commission Act through the fiat of the Attorney General⁷³

4. Conclusion and Recommendations

It is a well known fact that there have always been legislations enacted to curb corruption as well as institution established for such purpose. At times, it is noticed that sometimes, these bodies may not truly serve the purpose for which it is created. The bottleneck here may be as a result of the corruption with the realm of the institutional makeup. It is our submission here that for this malady called corruption to be stamped out of Nigeria, all hands must be on the deck to jettison the evil in our nation. Sequel to the discussion above on this work, it is highly noticed that one of the cardinal problems challenging anti-corruption crusade in Nigeria is political interference which undermines and hinders effective discharge of duties by the anti-corruption agencies. In line with these challenges, it is our recommendation that there is a need for collaboration, the government ought to adhere strictly to the principles of separation of powers and checks and balances as non adherence to these may lead to conflict of interest or a clog of the wheel of justice. Also, there is a need for change both in our private lives and in our political organogram, starting from the top. For corruption to be eradicated in Nigeria, the leaders should lead with example. There is the urgent need to erase instances of political patronage, nepotism, ethnicity, tribalism, self-aggrandizement and embezzlement of public fund and so on among the citizens and the political class.

⁷³ See Section 8 of the Public Complaint Commission Act, 2004.