

## **CORRUPTION IN NIGERIA: A CALL FOR AN AGGRESSIVE LEGAL SOLUTION\***

### **Abstract**

*Corruption has been an issue which has equally become an obstacle to the achievement of a better, efficient and effective economic development and virile democracy globally. Corruption is not exclusively economic phenomenon but manifest in every facet of our life, in political, the processes and other sectors like industries, banks, government establishments/institutions, law enforcement and judicial system, legislative assemblies, that is to say in both private and public sectors etc.<sup>1</sup> This article will proffer aggressive legal solution as a panacea to this hydra-headed cankerworm.*

### **Introduction**

The role of the Executive, the Judiciary and the Parliament in nation building and in combating corruption globally cannot be over-emphasized, especially in Nigeria with its experience of long period of Military Rule<sup>2</sup> and historical evidence of corruption in government.

Nigeria as a country is progressively being destroyed by a weapon of mass destruction in the guise of “corruption”. Not surprising, Nigeria is commonly referred to as the headquarters of the Advanced Fee Fraud otherwise known as 419<sup>3</sup>. This suggests that for all rhetorical emphasis successive governments since 1999 have not placed emphasis on combating corruption. Notwithstanding the putting in place of legal and institutional framework towards tackling corruption in, the problem remains pervasive. Corruption in Nigeria is ubiquitous in all its ramification and manifestation, petty as well as grand, in business transaction so also in the country’s political life (including during elections), in the private sector of the economy, public life and throughout government bureaucracy.

Corruption’s toll on economic growth, poverty and job creation cannot ordinarily be overemphasized and neither can the extent to which it has eroded the confidence of Nigerians in the state institution in general be overstated. Corruption in Nigeria is no more than one, the many daunting challenges the country is facing and it lays at the very heart of its economic and political troubles. At every important level therefore, Nigeria political economy remains driven primarily by the logic of clientelism and patronage<sup>4</sup>.

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<sup>1</sup> Tanzi V., *Corruption Around the World: Causes, Consequences, Scope and Cures*, (1998) IMF Staff Papers Pages 559-594 <http://www.worldbank.org/wbi/governance/govtdata> accessed on 12/04/2010, Transparency International Survey Sources for the Corruption Perspective Index (Online Publication, URL, 2003) and D. Gambetta, *Corruption: An Analytical Map*, In S Kotkin and A Sajo (eds), **Political Corruption of Transition; A Skeptic’s Handbook** (Central European University Press, 2000).

<sup>2</sup> Military ruled the country for 34year out of 49years since Nigeria became an independent country. General Aguiyi Ironsi (15th Jan. 1966 to July, 1966), General Yakubu Gowon (1966 to 1975), General Muritala Rahmat Mohammed (1975 to 1976), General Olusegun Aremu Obasanjo (1976 to 1979), General Muhammed Buhari (1984 to 1985), General Ibrahim Badamasi Babangida (1985-1992), General Sanni Abacha (1993 to 1998) General Abdulsalam Abubakar (1998 to 1999). Nigeria experienced only 15 years of civil rule that is Shehu Usman Aliyu Shagari (1979 to 1984), Chief Olusegun Obasanjo (1999 to 2007) Umaru Musa Yaradua (2007 to 2010); Dr. Goodluck Jonathan (2010-date); and the aberration called Interim National Government (ING) of Chief Ernest Shonekan for a few months.

<sup>3</sup> “419” is named after section 419 of the Criminal Code Act which deals with obtaining property by false pretence and cheating

<sup>4</sup> The position of leadership in Nigeria has become a sort of family affair and hereditary the same set of people continued to exchange power and the recycle themselves and their scions and godsons

This article examines corruption and crusade against the menace in Nigeria; effect of corruption on the economy of Nigeria; various legislative initiatives and judicial approaches to corruption and finally a legal solution is strongly recommended to combat corruption in Nigeria.

### Meaning of Corruption

Corruption is a global phenomenon that has elicited deep concerns. However, there is no generally acceptable definition of the term. This is because there cannot be a single, final and all-encompassing definition of the concept of corruption like many other concepts as rightly posited in the case of **Federal Republic of Nigeria v Mike Amaechie**<sup>5</sup> per Niki Tobi JSC that;

...Definitions are definition because they reflect the idiosyncrasies, prejudices, slants and emotion of the person offering them, while a definer of a word (concept) may pretend to be impartial and unbiased, the final product of his definition will, in a number of situations, be a victim of bias.

All attempts to define the concept of corruption have been based on different perspectives and criteria like, moral, legal, or sociological explanations of the act involved, which may involve conflicts of interest, breaches of trust or abuses of principal, agent, client relationships, economic, political and administrative position or comparison based on whether corruption involved public or private-sector actors. Most of these definitions while correct only address a fraction of the phenomenon, this is supported by the observation of Gambetta<sup>6</sup> that;

Can we identify a specific social practice that we can justifiably call “corruption”, and if so what are its distinct analytical properties? Given the multiplicity of definitions found in the literature and the considerable confusion over what exactly we should understand corruption to mean, this question, which form the objects of this essay, does neither have a straightforward or formalistic answer.

At this point, it is apposite to give some working definitions of the concept of corruption. According to Berg<sup>7</sup>,

Corruption is the abuse of public power for private benefit, while private benefit is often in the form of illicit money or in-kind from a client to the agent, we called this bribery.

Corruption is, a wrongdoing by those in special position of trust, the term is commonly applied to self-benefiting conduct by public officials and others dedicated to public service<sup>8</sup>. The Black’s Law dictionary<sup>9</sup> defined Corruption as,

The act of doing something with an intent to give some advantage inconsistent with official duty and the right of others, a fiduciary’s or official’s use of a

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<sup>5</sup> (2004) 1 SC (pt II) 27 at 25

<sup>6</sup> Gambetta (*Op.cit*) page 1

<sup>7</sup> Berg B, “How Should Corruption be Measured?” MSc Economics extended essay, London School of Economics and Political Science (2001) page 3

<sup>8</sup> Microsoft © Encarta © 2008 © 1993-2007 Microsoft Corporation. All rights reserved.

<sup>9</sup> B. A. Garner, ed **Black’s Law Dictionary** (Thomson West, 2004) page 371

station or office to procure some benefit either personally or for someone else, contrary to the right of others.

Robin Theobald<sup>10</sup> defines corruption in the public service as;

The perversion or destruction of integrity in the discharge of public duties by bribery, favour and the use or existence of corrupt practices, especially in a state of public corporation. It has also been described as the “misuse of office for personal gain. The office is a position of trust, where one receives authority in order to act on behalf of an institution, be it private, public, or nonprofits... corruption can entail acts of omission or commission. It can involve legal activities or illegal ones.

Corruption<sup>11</sup> (which can be defined as the abuse of public office for private gain) exists and has always existed. It is pervasive and has far reaching consequences for the functioning of political regimes as well as for the lives of a large segment of the world’s population.

Looking at the generality of the above definitions, it can be summed up that corruption is a departure from what is legally, ethically, and morally correct, lack of integrity or honesty, use of a position of trust for dishonest gain, moral perversion, impairment of virtue and moral principles, destroying someone’s (or some group’s) honesty or loyalty, undermining moral integrity, inducement (as of a public official) by improper means (as bribery or extortion) to violate duty.

While it may be impossible to eliminate corruption, it is possible to take some steps to curb it and control it<sup>12</sup>. In any way, we can say that corruption is a sign of the weakness of political, social, legal and economic system in the world.

An overview of some past successes and failures in combating corruption reveal the extent of power government exert in combating corruption and the succeeding government wishes to tackle corruption effectively but rather than furthering the struggle they usually inherits a corrupt bureaucracy that impedes the strives for change<sup>13</sup>.

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<sup>10</sup> Robin Theo Bald, **Corruption, Development and Underdevelopment**, (Durham Press, 1990) pg. 2

<sup>11</sup> Corrupt acts include bribery, extortion, that necessarily involves at least two parties, influence peddling, nepotism and fraud, use of speed money, embezzlement, misappropriation of public assets, illegal use of public assets for private gains, over or under invoicing or falsification of any of the salaries and wages to non-existing workers etc

<sup>12</sup> Report on Wilton Park Conference 748 Financing Politics, Curbing Corruption and Parliamentary Ethics in association with the Commonwealth Parliamentary Association and the World Bank Institute Monday 7 – Friday 11 June 2004) see generally H. Situngkir, The Structural Dynamics of Corruption, Artificial Society Approach; Department of Computational Sociology, Bandung Fe Institute, hokky@elka.ee.itb.ac.id or quicchote@yahoo.com assessed on 19/07/2009.

<sup>13</sup> Section of the Penal and Criminal Codes dealing with corruption, Successive governments had made attempt to put in place legislations to combat public crime in Nigeria i.e. General Gowon 1966, Public Officer (Investigation Assets) Decree No 5 of 1966, General Muritala Muhammed 1975, Corrupt Practices Decree, (10 out of 12 state governors were guilty of corruption, E. N. Eddy & E. E. Akpan, “Nigerian Government, the Public Sector and the Fight Against Corruption: the Role of Information and Communication Technology” (2008) **International NGO Journal** Vol. 3 (10) <http://www.academicjournals.org/NGO> accessed on 22/10/2009) pages 162-166 at 164 Buhari and Idiagbon, 1984, War Against Indiscipline and Special Tribunal on Recovery of Public Property, I B. Babangida, Structural Adjustment Programme 1985, and General Sanni Abacha 1993, introduced Failed Bank Tribunal Decree, War Against Indiscipline and Corruption (WAI-C).

### **Drivers of Corruption in Nigeria**

There are three basic features of Nigerian political and socio-economic factors that provide the underpinnings of corruption in the Federation. Firstly, the persistent of a significant level of impunity for the privileged ones and members of the ruling class in the manipulation of economy. Thus, because they are well connected with powers that in society and or even in the helm of affair of the state they benefit from unfair advantages, like official tolerance for illicit enrichment. Secondly, is the intertwined nature of political and socio-economic interest in the country. Nigeria also continues to exhibit a concentration of wealth and economic power in the hands of very few and it still suffers from excessive blending of political and economic interests. The third is the existence of a large and dynamic informal economy, a significant part of which is tied to the production and export of crude oil. Another prominent cause is the issue of extended family system in Nigeria, where a person in government or any position of influence has to provide and carter for large retinue of relatives and poor hangers on. So the person has to cut comers to meet up with that responsibility or the damned after leaving the office.

Against this background, the past years have witnessed the rising influence and visibility of concerted assertive, dynamic and progressive approach taken by the government to deal with issues of corruption in Nigeria. The increase involvement of citizen, NGOs activities in curbing corruption in both the private and public sectors of Nigerian economy is salutary.

### **Initiatives/Approaches of Combating Corruption in Nigeria Legislative Initiatives**

By nature, legislatures have an obvious role to play to ensure that a strong legal system against corruption is in place at all level of governance. This role goes beyond merely passing strictly anticorruption related legislation, as parliaments also set rules governing the political, social and economic activities of the country. For example, parliaments can enact legislation that promote more transparency and participation such as improving access to information<sup>14</sup> for both citizens and parliamentarians, ensuring freedom of information to empower the media to play a watchdog role as well as passing laws that strengthen oversight mechanisms or provide minimum social standards (salaries, employment equity, etc) to reduce the need to resort to corrupt practices. The legislative initiative in this premises if sincerely pursued can go a long way in the fight against corruption and reduce it to bearable minimum.

#### ***2. Legislation for Combating Corruption***

It is affirmatively clear that the function of legislation within the scope of the Constitutional provisions is exclusively the business of the Parliament at the National and State level. A cursory look at the provisions reveals that the Parliament enjoys overwhelming power to investigate and expose corruption virtually in every facet of Nigerian polity<sup>15</sup>.

The legislature being creation of the Constitution has its powers as elaborately laid down in it (the Constitution). In this regard, a look through the provisions of the 1999 Constitution reveals various substantives matters in respect of which the National Assembly and House of

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<sup>14</sup> It pathetic to note that a Bill (Freedom of Information Bill) guaranteeing public access to information has for long being lying before the National Assembly and yet to be passed into law, this is too bad especially as it tells on the sincerity of the Parliamentary effort to combat corruption.

<sup>15</sup> Section 4(1) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 see J.A. Akande, **Introduction to the Constitution of the Federal Republic of Nigeria 1999**, (MIJ Publishers, 2000) page 19-31

Assemblies have powers to pass laws.<sup>16</sup> Such areas include among others, the power to conduct investigation<sup>17</sup>, the power to expose corruption<sup>18</sup> and to make law for the peace and good governance of the country<sup>19</sup>.

At different points in time in Nigeria, successive government had taken bold steps to combat corruption through the passage of laws to that effect. The existing legislation on corruption and related areas in Nigeria can be found in different Acts or Statute, of which those relevant in curbing corruption include:

- Dishonoured Cheque (offences) Act 1977.
- Recovery of Public Property (Special provisions) Act 1984.
- Code of Conduct Bureau and Tribunal Act 1991.
- Money Laundry Act 2003.
- Economic and Financial Crime Commission Act 2004.
- Corrupt Practices (and other Relative Offences) Act 2003.
- Criminal Code Act.
- Independent Corrupt Practices Commission (Establishment) Act.

There are also offences of bribery, comprising many overlapping offences, broadly described by the general statement. Bribery is the receiving or offering of any undue reward by or to any person whatsoever, in a public office, in order to influence his behaviour in office, and incline him to act contrary to the known rules of honesty and integrity<sup>20</sup>.

The anti-corruption legislation globally, criminalizes corruption and provides for appropriate sanctions, deterrent measures as well as monitoring and surveillance mechanisms<sup>21</sup>. This goes to show that fight against corruption is a global thing that must be pursued with vigour<sup>22</sup>.

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<sup>16</sup> Though the lists (Exclusive and Concurrent) clearly mention the matters to be legislated upon, various section of the Constitution contains the substance of some of these matters. It must be appreciated that different levels of government coordinate each list. The Exclusive list is the preserve of the Federal Government while the state exercise concurrent jurisdiction over matters on the Concurrent Legislative list with the Federal Government. This delineation led to the doctrine of covering the field where in a situation the Federal Government legislates on an item on the concurrent list as and with the intention of taking care of all issues thereon, no state can pass any legislation on same, see **Attorney General of the Federation v Attorney General Abia State** (2002) 4 Sc (pt ii) 1 at 61 or (2002) 6 NWLR (pt 764) 542 or (2002) 4 SCNJ 1. There is also the unmentioned residual list on which the state has exclusive legislative powers.

<sup>17</sup> Section 88 or 128 of the CFRN 1999

<sup>18</sup> Section 15 of the Constitution CFRN 1999

<sup>19</sup> Section 4(1) & (2) of the CFRN 1999

<sup>20</sup> See sections 98, 98(a), (b), (c) and (d), 99, 101 and 104 of the Criminal Code Cap C38 see sections 115 to 133 of the Penal Code cap 345 LFRN 1990

<sup>21</sup> International conventions such as the UNCAC that covers key areas such as prevention of corruption, criminalisation of corruption, asset recovery or international cooperation are very useful instruments promoting common standards to combat corruption worldwide. Parliaments can ensure that the provisions of these various instruments are integrated into national laws and enforced as such. In Africa, for example, the Ugandan and Ghana Chapters of the African Parliamentarians' Network against Corruption (APNAC) piloted two sensitisation and lobbying programmes promoting the ratification and implementation of the African Union Convention against corruption. Please see:

[http://www.apnacafrica.org/docs/Uganda\\_Final\\_Report\\_AU\\_Legislation.doc](http://www.apnacafrica.org/docs/Uganda_Final_Report_AU_Legislation.doc)

and [http://www.apnacafrica.org/docs/Ghana\\_Progress\\_Report.doc](http://www.apnacafrica.org/docs/Ghana_Progress_Report.doc) accessed on 22/03/2010

<sup>22</sup> There is evidence to show that these legislations are achieving the objects of combating crime in Nigeria. For instance, EFCC was able to recover and remitted the sum of N3.1 Billion Naira looted by former Governor of Bayelsa State, Alamiyeseigha to the CBN. According to the chairperson of EFCC, the return of the looted money is importation because, firstly, it is a reminder that crime does not pay, stolen assets will certainly be traced and confiscated and secondly, it warns that the law is not a respecter of person irrespective of your rank or position. See *The Nation* of Friday, July 10, 2009 pages 1-2

### 3. Appropriation and Financial Bill Initiative

The significance of parliamentary role in combating corruption vide control of public finance cannot be over-stressed. Thus, to enable the Parliament exercise its powers with respect to control over public finance, the President is expected to present annually to the Parliament an Appropriation Bill. Parliament has the power to authorize expenditures and to levy tax. In Parliamentary democracies, the result is that Parliament will use budget as occasion for an extended debate on the policies and purposes of the government, but the budget will survive as presented.<sup>23</sup> The 1999 Constitution provides inter alia; (1) The provisions of this section shall apply to

- (a) an appropriation bill or supplementary bill, including any other bill for the payment, issue or withdrawal from the consolidated revenue fund of any other public fund of the federation of any money charge therein or any alteration in amount of such a payment issue or withdrawal; and (b) a bill for the imposition of or increase in any tax, duty or fee or any reduction, withdrawal or cancellation thereof.<sup>24</sup>

The powers to pass or reject Appropriation Bill into law with or without amendment, afford the legislature the opportunity to thoroughly scrutinize and criticise the proposals contained therein<sup>25</sup>. In fact, the quality of the debate and criticisms have had its impact on the government. Indeed, it is the critical quality and effectiveness of such debate that determines the character of the legislative body.

In the exercise of its constitutional duty of controlling the expenditure of public fund (and thereby monitor corrupt practices), the legislature usually operates a number of committees specialized in financial matters<sup>26</sup>, the committee stage for technical reasons is usually formal. The Annual Appropriation Act deals with the balance of money voted but so far not disposed of and confirmed respectively the appropriation made by the Consolidated Fund Act<sup>27</sup>. This is supported by the Nigerian constitution, which provides that;

...the powers conferred on the National Assembly under the provision of this section are exercisable only for the purpose of enabling it to expose corruption, inefficiency or waste in the execution administration of law within its legislative competence and in the disbursement or administration of funds appropriated by it<sup>28</sup>.

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<sup>23</sup> M.O. David **Legislative Process: A Comparative Approach**, Oxford University Press, London 1989 p. 195.

<sup>24</sup> Section 59 (1) (a) of the CFRN 1999

<sup>25</sup> Section 50 (2) of the CFRN 1999

<sup>26</sup> Such Committees may include, Public Account Committee, Expenditure Committee, Estimate Committee and Audit Committee. Section 62 and 103 of the Nigerian Constitution allows the National and States House of Assembly to employ committee system in its legislative functions.

<sup>27</sup> K. Awotokun, **Governance and Legislative Control: Lesson from Second and Third Republics**, (San-Francisco, International Scholarly publications, 1998), E. T. May, **Parliamentary Practice: The Law, Privilege, Proceedings and Usage of Parliament** (London, Butterworth, 2004). In order to prevent corruption, the President Shehu Musa Yaradua ordered the payment or return of unspent money at the end of every financial year back to the purse of the Federal Government. The fear that such money usually found their way into private account was evidenced in the action of a Minister, Mrs. Diezani Alison Madueke (former health Minister) that withdrew N30.9 Million within 26<sup>th</sup> – 31<sup>st</sup> December 2008 against the directive of the President that such money unspent be remitted to the Federation Account. See *The Nation* of Monday June 30th, 2008.

<sup>28</sup> A.O. Popoola, **Enforcing the Principles of Separation of Powers: A Review of the 1999 Constitution**, Legal Research and Resource Development Centre Abuja 14-16<sup>th</sup> Feb. 2000 pages 4-5, E. May, **Treaties in the Law Privileges and Usage of Parliament** (London Butter Worth, 1989) page 112 see also A.A. Jimson, *Law Practice and Procedure of Legislature* (Lagos, Learned Publisher 1999).

#### 4. Public Account Committee Initiative

Be that as it may, accounts of all expenditures of the government consisting of financial reports of every department must be submitted annually to the Public Account Committee for examination and scrutiny after the Accountant General had audited the account. The account and the Auditor General's report are required to be examined and reported upon by the Public Account Committee.<sup>29</sup>

The idea of Public Account Committee was imported to Nigeria from Britain, where it has served as a veritable Parliamentary instrument of controlling public expenditure since 1861. The essential point to note here is that since the Public Account Committee concept was introduced into Nigeria, there has been a form of public accountability structure in Nigeria<sup>30</sup>.

Administrative and executive heads as well as the chief accounting officers of the various departments of Government must be ready to answer questions and to provide required evidence before the audit committee over the spending of approved expenditures enacted by the legislature in the Appropriation Acts or Laws<sup>31</sup>. The Constitutional provision relating to the audit of public accounts provides as follows:

The public account of the federation and all officers and courts of the federation shall be audited and reported on by Auditor General who shall submit his report to the National Assembly, and for that purpose, the Auditor General or any other person authorized by him on that behalf shall have access to all the books, records, returns and other documents relating to those accounts.<sup>32</sup>

It is apposite to say that under section 85(2) of the 1999 Constitution, the Auditor General is required to submit his report to each House of the National Assembly within ninety days of receipt by him of the Accountant General financial statement. Each House shall cause the committee responsible for Public Account to consider the report received. It is instructive to note that, committee stage of appropriation is of significant importance in any democratic government to expose corruption, inefficiency and as part of oversight function ensure that all money appropriated are sufficiently used for the well-being of the society.<sup>33</sup>

The Public Account Committee is concerned with formulating accounting standards and regulations capable of assuring that public funds are spent in accordance with Statutory or Legislative Authority, eliminate waste and extravagance in public expenditure, encouragement of sound practice in making estimates of public expenditure and contracts, establishing probity and accountability in the public finance administration and to ensure that the need to obtain value for money<sup>34</sup>.

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<sup>29</sup> Section 88 (2) (b) Nigeria Constitution 1999.

<sup>30</sup> D. Olowu, "Parliamentary Control of Public Finance in Nigeria: The Constitutional and Cultural Dimension examined" **LASU Journal Vol. IV issue I** (2001) pages 10-24

<sup>31</sup> Section 85 (2) (b) (for the Federation) and section 125(2) (for the states) of the Nigerian Constitution 1999

<sup>32</sup> Section 85(2) *ibid* see also G.A. Kanu "Oversight Powers of the National Assembly, Limits, Myths and Reality," a paper presented at the NBA Conference Calabar, 2001 page 12.

<sup>33</sup> Section 85 (2) of the CFRN 1999

<sup>34</sup> A.J. Akintola, **Law and Procedure of Legislature** (Lagos Learned Publishing; 1999) page 101, see also D. A Guobadia; **The Legislative and Good Governance under the 1999 Constitution (NIALS Publication, 2001)** page 43 at 45-7

These and several other steps are methods the Legislature can adopt to curb corruption and to keep governments accountable. The examination of public accounts will contribute to keeping governments accountable for their use of public funds and resources. Public Account Committees generally concentrate on financial probity and regularity but they may, at times, be in charge of examining the effectiveness of government programmes. They also provide political impetus for reports made by independent auditors.

It is respectively observed that there should be an avenue where Auditors-General may receive suggestions from Public Account Committees, other Members of Parliament, or the public on profitable areas of study. The Auditor-General may or may not agree with these suggestions. In some circumstances the Auditor-General may, by law, be required to comply with the suggestions.

### **5. Parliamentary Oversight tools for Accountability**

Parliamentarians also have a set of tools available to ensure greater transparency in decision making and in curbing corruption. They have the power to question the executive and deliberate on how decisions were made through the question time, committee hearings, and committees of enquiry, interpellations or ombudsmen offices.

The oversight framework should provide for strong investigative powers, allowing, for example, for witnesses<sup>35</sup> to be called or penalties for contempt or perjury applied. Parliamentary action against corruption can consist of adopting, enforcing and/or reinforcing existing mechanisms in place for bringing government to account, making optimum use of parliamentary committees to scrutinize government operations or finances.

### **6. Representation Initiatives**

Ultimately parliamentarians are accountable to the electorate on whose mandate they are at the Parliament. As representatives of the electorate they have the duty of ensuring that their influence over the various government policies and processes reflects national priorities, and those citizens' concerns are kept abreast of government activities. It is instructive to note that a sincere parliamentarian representation of electorates' interests can metamorphous into political processes that can have a strong weight in the fight against corruption. Thus, engaging the electorates in public debate can contribute immensely in ensuring citizens' participation and commitment in the political process and improve the public perception of parliament's legitimacy to combat corruption in Nigeria.

Through this, parliaments can play a key role in ensuring probity and accountability through constituency outreach, public hearings and allowing increased opportunities for interactions with civil society. The citizen can equally be encouraged to denounce and condemn corruption through the development and implementation of effective complaints methods<sup>36</sup>.

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<sup>35</sup> Section 88 or 128 of the CFRN 1999 (for National and State Houses of Assembly, respectively), through the efforts of the parliament to investigate and call witnesses pursuant to these sections of the Constitution, the Nigerian National Assembly had exposed the corruption and mismanagement of N19 Million Aviation Intervention Fund, *The Nation* of Tuesday July 8, 2008 and the N125 to N300 Billion Health sector Fund see, *The Nation* of Monday June 27, 2008.

<sup>36</sup> For example, Malawi is opening up Public Account Committee investigations to the media while Ghana plans to open Public Account Committee meetings to the public. Similar efforts are also underway in Sri Lanka and Tanzania in Nigeria this is possible through public hearing. <http://www.gopacnetwork.org> accessed on 12/03/2010

Members of Parliament also have a responsibility to set an example of incorruptibility to restore the trust of the public in political processes as in many countries, the legitimacy of political institutions have been undermined by political unresponsiveness, various forms of misconduct and corruption scandals<sup>37</sup>.

### **7. Judiciary and the Curbing of Corruption**

The judiciary has a critical role to play in the area of curbing corruption in Nigeria. This is important in that cases of corruption are heard by the court upon initiation of action against corrupt officials. Thus, the judiciary are duty bound not only to see that justice is done but that it is actually done. It is significant to note that in **Re Olafisoye**<sup>38</sup> the Supreme Court demonstrated its commitment at standing against corrupt practice within the confine of the law and its jurisdiction when it observed thus:

A corrupt society definitely will trouble the peace, stability, order and good government of the country. In a country where public officers in government freely dip their hands in the treasury and steal government money at will, the masses will complain and such complains could threatened the stability and social equilibrium of the nation. In most nations in the world, including Nigeria, the masses abhor corruption and that is one reason, though not most important reason, why EFCC and ICPC Act were enacted.

Thus, the crusade against corruption does not stop at the table of the legislature by merely passing the laws to curb corruption but extend to the judiciary in its inherent power to adjudicate and interpret the Constitution<sup>39</sup>.

### **8. The Executive Initiatives in Curbing Corruption**

It is apposite to state that the executive (Federal and State) since the inception of democratic governance in Nigeria has exhibited lack of tolerance for corruption in governance. This is shown from the very fact that most of the anti-corruption Bills<sup>40</sup> were initiated by the executive, thus supporting their commitment to zero tolerance for corruption. It is also apposite to state without mystification of fact and against the backdrop that the mighty<sup>41</sup> cannot be questioned that, the anti-corruption agencies had tried many executive officials of government since 1999.

### **Conclusion**

In order to curb corruption, it is necessary to adopt a multi-dimensional approach. The fight against corruption and its measures should be taken both by national and international institutions. If there is no genuine commitment to fighting corruption<sup>42</sup>, the anti-corruption effort is not going to be neither self-sustaining nor willing; ultimately it will fail to produce any

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<sup>37</sup> One needs to commend the National Assembly in this respect, Former Speaker of the House of Reps and Presidents of the Senates have been removed on ground of corruption, i.e. Chuba Okadigbo, Mrs Ette, Senator Wabara, and Salisu Buhari. Some legislators are also presently being prosecuted for acts of corruption, for example Iyabo Obasanjo, Ndudi Elumelu etc

<sup>38</sup> **Re: Olafisoye** (2004) 1 SC (pt I) 27 at 54, per Niki Tobi JSC

<sup>39</sup> Section 6(6) of the Nigeria Constitution 1999

<sup>40</sup> Economic and Financial (and other related offences) Crime Commission 2004 (EFCC), Independent Corrupt Practices Commission Act (ICPC)

<sup>41</sup> Section 308 provides immunity to the President, Vice President, Governors and Deputy Governor against prosecution.

<sup>42</sup> The idea of plea bargain is foreign to Nigeria and will never achieve the object of combating crime neither also will ridiculous fine of culprit by our court (i.e. N1000 fine against Billion of Naira Stolen passed on Governor Oji Uzo Kalu) did not show that Nigeria is sincerely committed to combating corruption. The perpetrators of corruption if caught and found guilty of the offence in accord with the rule of law should be punished appropriately.

significant result. This is the reason why creating unifying force at the national, state and local level in Nigeria is very important.

The adoption of measures taken to combat corruption at these levels, though is necessary but not sufficient to curb corruption. It is important in addition to the measures such as legislation, it is crucial to pursue and see not only that the measures are implemented but vigorously enforced.

Conclusionally, several tools other than legislation can be employed to fight corruption and to prevent various types of misconduct, such other tools are public enlightenment and education. These tools should be used at the same time to attack corruption and misconduct.