Season of Presidential Open Letters Revisited: Is Grand Corruption the Cancer of Nigeria? A Critical Reflection.

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Abstract

Grand corruption maintains a firm grip on the Nigerian economic, social and political system despite the existence of numerous anti-corruption institutional bodies and the justice system. Grand corruption is the sore spot in Nigeria's pursuit of transparency and accountability in governance and has ensured the continuous neglect of the rule of law and due process, national underdevelopment, violation of socio-economic rights and insecurity. This paper, using the metaphor of "cancer" appraises the "open letters" exchanged between two prominent former Nigerian Presidents. It argues that the contents of the "two presidential letters" have placed a moral mandate on Nigerians to renew the commitment towards combating grand corruption, particularly with the emergence of a new administration whose agenda portends a policy of zero tolerance to corruption. The paper recommends the strengthening of the anti-corruption agencies, law reforms and national reorientation through mass education and mobilisation with the aim of combating the cancer of endemic grand corruption in Nigeria.

Key Words:

Grand corruption, Open Letters, Nigeria, Presidents, Cancer.

Introduction

Human Rights Watch (December 12 2013) refers to Nigeria's grand corruption as a culture of impunity as the nation "…made little progress in combating corruption in the public sector". Similarly, Akin Oyebode (2001, 603) argues that "recent scandals rocking the present civilian administration in Nigeria has given force to the assertion that corruption can be said to have become our fundamental objective and directive principle of state policy". On how corruption escalated in the country, there is a widely held belief that military incursion into governance was largely to be blamed. In addition, the unwillingness of most of the succeeding civilian governments to effectively tackle the menace contributed to the seemingly uncontrollable spate of corruption in the country. The notoriety of grand corruption in Nigeria is observed in most academic literature on corruption citing Nigeria as a vivid example of an economy ravaged by endemic grand corruption (Susan Rose-Ackerman, 1998, 2012; Alina Mungui Pippidi, 2006; John Mbaku, 2010; Martine Boersma, 2013; Arvind Jain, 2001; Dan Hough 2013; Daniel Kaufmann, 1997; A. Hiedenheimer & M. Johnson 2002; C. Albin-Lackey, 2013; Kolawole Olaniyan, 2014; Bolaji Owasanoye, 2015).

The effects of corruption in Nigeria are devastating and well discussed in the literature. For example, the empirical findings on the level of corruption in Nigeria from data obtained from the World Bank and the Transparency International Indexes (TI) is mind boggling, and widely discussed in both academic and non-academic literatures on corruption. Former Nigerian President, Olusegun Obasanjo, baffled by the level of corruption in Nigeria wrote a letter in 2013 to the then incumbent President, Goodluck Jonathan, accusing him of complicity in the endemic grand corruption ravaging the Nigerian polity. The letter was quite unprecedented and a paradox of a sort as not only did it come from a past President who was accused of the same offence, but also a strong political ally of the then President, Goodluck Jonathan. The letter highlights the implications of uncontrolled grand corruption and in particular, the consequences on human rights in Nigeria and the need for urgent action. Former President Jonathan replied to the letter unequivocally denying personal involvement in most accusations contained in the letter, but was very emphatic in stating: "That corruption is an issue in Nigeria is indisputable. It has been with us for many years... the seed of corruption in this country was planted a long time ago ....I can hardly be blamed if the wheels of justice still grind very slowly in our country" (Vanguard, 23 Dec 2013; BBC News Africa, 23 December, 2013). Obasanjo and Jonathan had a unique convergence of discourse in the sense that both attests to the existence of systemic grand corruption in Nigeria. Anna

Tibaiujka captures the essence of this paper in this statement: “it is not enough to say that people …are corrupt, but to ask who is corrupting them and how do we deal with them” (Tibaiujka, 2005 cited in John Hatchard, 2014:11). Likewise, part of the question that this chapter postulates was raised by Chidi Odinkalu, ‘how has a country so richly endowed blown the opportunities for itself and its generations yet unborn so spectacularly? (Cleen Foundation, 2010). This paper also inquires if grand corruption is the cancer of Nigeria. Why has the Economic and the Financial Crimes Commission (EFCC), a major anti-corruption agency in Nigeria failed to effectively tackle the issue of grand corruption in Nigeria? What are the human rights implications of grand corruption in Nigeria?

Grand Corruption in Nigeria?

Grand corruption refers to “the acts of the political elite by which they exploit their power to make economic policies … this occurs when a corrupt political elite change either the national policies or the implementation of national policies to serve its own interests at some cost to the populace” (Arvind Jain, 2001: 73-74). It involves high-ranking government officials cashing in on the dysfunctional institutions to steal public funds. Michael Ogbeidi argues that ‘Political [grand] corruption has become a cancerous phenomenon that pervades the Nigerian state unrestrained” (Ogbeidi, 2012:5). This assertion alludes to “Cancer of Corruption” (Wolfensohn Speech at The World Bank, 1996).

The spate of grand corruption remains unaffected by Nigeria’s domestic anti-corruption initiatives, and undermines its commitment to the ratified regional and international treaties. Thus, while there are a myriad of anticorruption laws, Nigeria remains one of the most corrupt countries in the world. The existence of abundant natural resources has unfortunately presented a case of the natural resource curse (Shaxson, 2007) and a paradox of lack amidst plenty. The existence of huge petroleum deposits guaranteed excess revenue for Nigeria, which to a large extent triggered the propensity to loot the public treasury (Duruigbo, 2005). Hence, it is pertinent to ask, how did Nigeria get so entangled with grand corruption?

The history of grand corruption originated from the colonial times, according to Stephen Pierce (2006:888) as “British authorities complained about governmental corruption from the very beginning of the colonial period”. Bernard Storey (1953) asserts that “before

independence, there have been cases of official misuse of resources for personal enrichment". Over the years, Nigeria has seen its wealth withered with little to show in the living conditions of the citizens due to high-level corruption in the public sectors. The immediate post-colonial administrations failed due to complicity with corruption.

The emergence of the military in the Nigerian political sphere worsened the corruption issues in Nigeria. Prominently, the massive looting of the public treasury by former military president General Ibrahim Babangida who is yet to account for the sum of US$12.67 billion earned during the Iraq/Gulf war exceptional oil boom (Agbiboa, 2013) and late General Sani Abacha, his family and cronies (Ezeani, 2005) who looted the treasury of Nigeria to the tune of about US $50 billion is typical evidence of military institutionalised grand corruption. Despite the various compelling evidence against Babaginda's complicity in grand corruption as pointed out by the Okigbo Panel (Okigbo Panel Report, 1994) and the pursuit and repatriation of some of Abacha's loot from various foreign funds linked to him, no meaningful domestic prosecution was initiated against them. Former President Babangida walks free today in Nigeria while the Abacha family received presidential pardon for perpetrating massive treasury loot against Nigerians (Berne Declaration, 2015).

After the return of democratic governance in Nigeria, the civilian administrations of President Obasanjo, Yaradua and Goodluck Jonathan instead of concertedly tackling grand corruption, further escalated the already volatile situation leading to prominent grand corruption scandals including: the Halliburton affair (*United States v KBR LLC)*, Alamieyeseigha's case (*Federal Republic of Nigeria v Alamieyeseigha*), Ibori's case (Ayogu and Agbor, 2014: 359), Tafa Balogun's case (Human Rights Watch, July 2005 Vol 17, No. 11 (A), Joshua Dariye's case (*Federal Republic of Nigeria v. Dariye*); the missing $20 billion dollar petroleum revenue case (Financial Times, 13 May 2015) and the recent looted National security funds by Colonel Sambo Dasuki running into billions of dollars (BBC News 1 December, 2015; Newsweek Europe 2 December, 2015) are just a few of the numerous grand corruption cases that have challenged Nigeria's transparency and integrity.

In the case of a former governor of the oil-rich Delta state, James Ibori who was convicted by the Southwark Crown Court in London of money laundering offences involving USD $67 million after extraditing him from the United Arab Emirates to stand trial in the United Kingdom (Albin-Lackey, 2013: 155) exposed the brazen level of grand corruption in Nigeria. Ibori was sentenced to 13 years in prison in the United Kingdom on 17 April 2012

Comment [f1]: Watch sentence structure

(The Wall Street Journal, 17 April 2012; Manga Fombad and Choe Fombad, 2015). A major issue that comes to mind from the analysis of Ibori's case is a question of why a Nigerian court previously absolved him of the charges on similar offences. In this regard, Transparency International (5 Oct 2015) submits "the case of James Ibori is fresh in mind as the Nigerian court declared him not guilty while a court in the United Kingdom arrested, investigated and prosecuted him". Does it mean that the laws in Nigeria are wrongly crafted or that the judiciary is ineffective? According to Albin-Lackey (2013:155), the answer tends to be holistic as "Ibori was renowned for fuelling widespread corruption and political violence", and the rot in the judiciary facilitated the "dismissal of charges against the well-connected former governor" Jain, 2013:155; Human Rights Watch, April 17 2012). Jain (2001:3) concurs that a "weak and judicial system becomes a cause and consequence of corruption". The Transparency International (October 5 2015) maintains that "we therefore insist that the Nigerian judiciary becomes more credible by redeeming itself to restore confidence and make justice reliable to prosecute those who mismanaged funds while in office".

Human Rights Watch (2014) bemoaned the state pardon granted to the late Diepreye Alamieyeseigha by former President Jonathan arguing that it is "a major setback in ending impunity for corruption among political officeholders". Alamieyeseigha was the only governor to have served prison term in Nigeria. The presidential pardon granted to Alamieyeseigha not only sent the wrong signals locally and internationally, but confirmed the reasoning that certain Nigerians are untouchable and has cast serious doubt on the sincerity of the state to combat grand corruption.

Comment [f2]: served a prison term

Moreover, the former Governor of the Central Bank of Nigeria, Sanusi Lamido Sanusi alleged that the sum of about $20 billion Dollars was unaccounted for by the Nigerian National Petroleum Corporation (NNPC). Human Rights Watch states that in February 2014, the government suspended Sanusi for whistle blowing against the NNPC (Human Rights Watch). To date, Sanusi insists on the veracity of his claims (Financial Times, 13 May 2015), and it took another similar corruption allegation, this time, made by another ex-governor of the Nigerian Central Bank, Charles Soludo (Premium Times, 26 Jan. 2015), for former President Jonathan to be prompted to hurriedly declare publicly that he has received the result of the forensic financial audit conducted by Price Water Coopers (PWC) on the missing $20 billion dollar allegation. The forensic audit concludes that US$1.48billion was truly misappropriated thereby giving credence to Sanusi's allegation (ThisDay, 3 February 2015),

Comment [f3]: Price Waterhouse Coopers PwC

even though this fell short of Sanusi's initial projection of US $20 billion. Presently, the dissipation of the $32 billion dollars meant for arms procurement in order to fight the threats of Boko Haram terrorism by the former National Security adviser, Sambo Dasuki, has reinforced the firm grip of grand corruption in Nigeria (BBC News, 14 December 2015; ThisDay, 2 December 2015).

Comment [f4]: Do you mean soon, or now? If the latter, then this should be 'currently'.

A Critical Reflection

Several reported grand corruption scandals in Nigeria point to the conclusion that corruption in Nigeria is cancerous, and has metastasised throughout the body politic. No sector is spared and the public office holders act with impunity against the public interest while their greed impoverishes the lives of many (Owasanoye, 2014). Nigeria remains a captured state and faces the scourge of the natural resource curse. Hence, it is pertinent to ask, why are we stifled by these scandals? Are the laws deficient or are the citizens amoral? Discussing the questions is desirable, not only because it has the potential to assist in combating grand corruption in the country, but according to the World Bank (30 January 2013), this discourse matters because the consequences of corruption include: "corruption diverts resources from the poor to the rich, increases the cost of running businesses, distorts public expenditures and deters foreign investors…it is a major barrier to sound and equitable development... it restricts access to services for the most vulnerable citizens and is associated with a lower quality of public services".

Thus, Irene Pogoson (2009:77) reiterates that "combating corruption, especially in a country like Nigeria where it is endemic, pervasive, and deep-rooted, must involve much more than the promulgation of laws and setting up an independent commission. To be effective, an anticorruption regime must involve multifaceted strategies that address the underlying structural and social problems that spur corruption". Olaniyan (2014:4) argues differently insisting that the fight against corruption in Nigeria fails because the laws are most often approached from a criminal law and enforcement dimension, devoid of human right ingredients that put the victims in focus with guarantees for their human rights protection. Olaniyan (2014:8) further posits that the application of such a "restrictive approach" is

fundamentally flawed, the "approach has proved counter-productive, thus making durable and sustainable solutions to the problem elusive". Olaniyan (2014:8) further criticises the justice system as paying lip service to the prosecution of corruption in Nigeria, adding that "comparatively, few high-ranking officials are prosecuted, and corruption cases that are taken to court proceed at a snail's pace and serve no more than a symbolic purpose". This paper takes the stance that the anti-corruption battle could be better fought where it incorporates human right elements in addition to the review and updating of the most obsolete laws in Nigeria to reflect the realities of today. For instance, the sanctions available for most serious corruption cases are a parody of the legislative and executive commitment to tackle the menace in the country. An example is the penalty of N750,000 given by Justice Talba's judgment in the Police pension fund case of N23 billion which made a mockery of the judicial system (Premium Times, 16 February 2013; SERAP). This paper also advocates the involvement of civil society organisations in the State's ongoing and future strategy in executing the battle against corruption (The Guardian, 9 December 2015).

The Socio-Economic Rights and Accountability Project (SERAP) argue that the government meddles with the statutory roles of the anti-corruption agencies to the extent that "governments have not allowed them to perform their statutory duties independently and effectively" (SERAP, 2006). Some writers argue strongly that regimes without strong political will to combat grand corruption are totally dishonest with their intents (Mbaku, 2010: 145). This paper argues that the failure of the anti- corruption agencies is mostly tied to insincerity in initiating reforms, lack of autonomy of the anti-corruption agencies from the executive arm of the government, deficiency of laws which exclude human rights considerations, obsolete criminal law procedures, and discriminatory prosecutorial practices.

Grand corruption thus implies that the "State is not taking steps in the right direction, for instance, when funds are stolen by corrupt officials, or when access to healthcare, education and housing is dependent on bribes, a state's resources are clearly not being used maximally to realize economic, social and cultural rights" (Albin-Lackey, 2013:148). In Nigeria, such public stealing with impunity appears to be institutionalised. Recent example includes the embezzlement of pension fund contributed by civil servants by a cartel comprising of top ranking public servants (Ubhenin, 2012:289-304); the looting of funds accruing from petroleum sales by the Petroleum Ministry and the infamous diversion of the $32 billion fund meant for the defence arms procurement against terrorism (BBC News, 1 December 2015; This Day, 10 December 2015).

Comment [f5]: Recent examples include

Human Rights Implications of Grand Corruption

The looting, embezzlement and diversion of public funds mean that the realisation of certain human rights is adversely affected. For example, the Universal Basic Education programme (UBE) in Nigeria presents a typical case where funds budgeted for educational purposes were embezzled by public servants resulting in the denial of the right to education to some people. In *SERAP v Federal Republic of Nigeria and Universal Basic Education Commission*, ECW/CCJ/APP/08/08, SERAP alleged the violation of the right to quality education, the right to dignity, the right of peoples to their wealth and natural resources and the right of peoples to economic and social development guaranteed by Articles 1, 2, 17, 21 and 22 of the African Charter on Human and Peoples' Rights. The ECOWAS Court ruled that the right to education can be enforced before the Court and dismissed all objections brought by the Federal Government of Nigeria through the Universal Basic Education Commission (UBEC), that education is a mere directive policy of the government and not a legal entitlement of the citizens.

The right to life has been compromised through the threat of Boko Haram insurgency and terrorism which arguably has been sustained by the systemic grand corruption in Nigeria (Anaedozie, 2015:13). This is also tied to inability of the Nigerian government to accede to the constitutional mandate of providing security for the citizenry as stipulated in Chapter 11 of the 1999 Constitution, relating to the Fundamental Objectives and Directive of State Policy in Section 2 (b). This portends serious human rights consequence as the right to life is a fundamental human right that should be protected at all times. It is obvious that thousands of lives have been lost particularly in north-eastern Nigeria due to Boko Haram terrorism (The Economist, 18 November 2015).

Comment [f6]: This is a reference to the author's own work. It would be useful also to cite another author's work to support this claim. The corresponding detail, moreover, is not listed in the bibliography.

Comment [f7]: The link between corruption and Boko Haram needs to be demonstrated more clearly here.

The core of the human rights argument in this section is that the impact of grand corruption through the massive looting of the public treasury falls on the ordinary people, their socio-economic needs will simply not be met "when the resources to provide those needs are stolen, diverted into private pockets, and then stashed abroad" (Olaniyan, 2014: 206). As it stands, Nigeria has no sustainable social policy for the elimination of poverty like the provision of housing, health care, food, water, education and shelter. These are rights tied

Comment [f8]: Full stop, new sentence

to the sustenance of human life and are particularly relevant to marginalised and disadvantaged groups.

The causal link with human rights exist in the corruption discourse as according to President Buhari, “when you see dilapidated infrastructure round the country, it is often the consequence of corruption. Poor healthcare, collapsed education, lack of public utilities, decayed social services, are all products of corruption as those entrusted with public resources put them in their private pockets” (The Sun, 12 Dec 2015).

Revisiting the Presidential Open Letters

The publication of the Presidential open letters in 2013 catalysed the polity so much that there were denials, accusations, counter accusations and editorials in the local and international news. A lot of people saw the letter written by Obasanjo as a form of witch-hunt by an embittered oligarch who lost his grip on his captured prey. However, reading the letters from an objective point of view and despite the challenges Obasanjo’s regime had with its anti-corruption policies, it appears that he seemed to be stating the obvious. Relying on the contents of Obasanjo’s letter to Goodluck Jonathan and juxtaposing it with the grand corruption scandals at hand, Obasanjo’s letter could be argued to have depicted what could be the Michel Nostradamus of our time, the man who saw Nigeria’s tomorrow. The ongoing corruption enquiries and arrests tied to the National Security Adviser’s office and the missing $20 billion oil revenue appears to have vindicated Obasanjo’s letter. There is now empirical evidence to sustain the assertion that grand corruption has become the cancer of Nigeria. It permeates every sector of the national economy and circulates in a vicious cycle. It becomes clear that corruption is no longer the exclusive reserve of the military. Former Presidents Ibrahim Babangida and Sani Abacha were complicit, but the civilian regimes after the military tenures have evidently aggravated the situation. It is not just evil, but inhuman that funds meant to fight insurgency and terrorism were diverted into private pockets (Anaedozie, 2015). Evidence suggests that the office of the National Security Adviser was turned into a conduit for siphoning funds from the national treasury (Financial Times, 18 November 2015). The report of a further missing $20 billion oil revenue by the erstwhile Central Bank

Comment [f9]: Extremely strong language for an academic article

Governor and the indictment of the National Security Adviser, Colonel Sambo Dasuki of looting and laundering billions of dollars meant for combating Boko Haram insurgency epitomises the pervasiveness of grand corruption within the system. According to the news report of the Punch newspaper dated 11 December, 2015, the former Finance Minister, Okonjo-Iweala agreed that she transferred $322million from the looted funds recovered from the late Gen. Sani Abacha, to the Office of the NSA for military operations in the North-East. Reacting through her Media Adviser, Mr. Paul Nwabuikwu, Okonjo-Iweala stated that the transfer of the fund was approved after a Committee set up by former President Jonathan gave approval for the use of the money and based on the decision of the Committee, she personally requested that part of the recovered fund be used for security operations while the rest be channelled into developmental purposes. These events expose how the office of the National Security Adviser has been used by the oligarchs to consolidate their capture of the state by ensuring that state departments become money laundry and financial conduit accessories from where state funds are siphoned with imaginary projects linked to national security expenses and projects. Similar phoney projects tied to the Defence Ministry's votes was also relied upon by the late General Sani Abacha to loot the national treasury. Those formed part of the Abacha loot that is still been repatriated to Nigeria by Switzerland, the United Kingdom, USA and other countries used as safe havens by Abacha (Stolen Assets Recovery STaR Initiative, 2007).

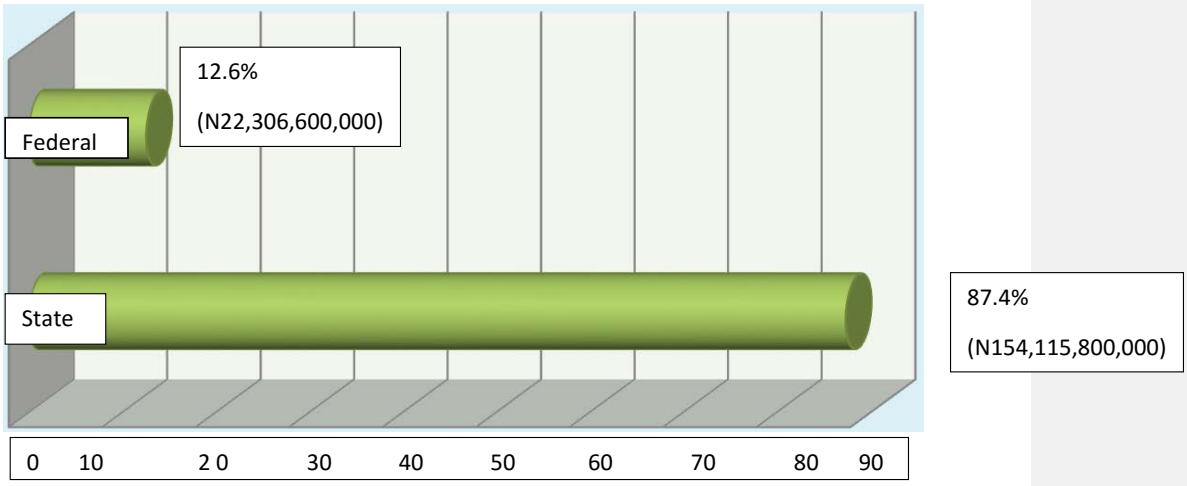
Comment [f10]: There seems to be a missing link here: what happened to the money once it went to the NSA?

The Economic and Financial Crimes Commission (EFCC) a Crippled Giant?

The Economic and Financial Crimes Commission (EFCC) is the most prominent anti-corruption agency in Nigeria vested with the duties of fighting economic and financial crimes in the state. In 2003, former President Olusegun Obasanjo established the Economic and Financial Crimes Commission (EFCC) three years after the establishment of the Independent Corrupt Practices Commission (ICPC). The EFCC is empowered to prevent, investigate, prosecute and penalise economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes including: money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arms deal, smuggling, human trafficking, child labour, illegal oil bunkering,

illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes, and prohibited goods (EFCC Establishment Act, (2004) as amended in 2007). The Commission is also responsible for identifying, tracing, freezing, confiscating, or seizing proceeds derived from terrorist activities. EFCC is also host to the Nigerian Financial Intelligence Unit (NFIU), vested with the responsibility of collecting suspicious transaction reports (STRs) from financial and designated non-financial institutions, analysing and disseminating them to all relevant government agencies and other Financial Intelligent Units all over the world (EFCC Establishment Act, (2004) as amended in 2007).

The EFCC right from inception was construed to be at the forefront of the government's anti-corruption project. The high expectation placed on EFCC has placed serious pressure on the need to investigate and prosecute a number of high profile corruption cases. While the EFCC has achieved some high profile convictions, it is faced with the challenge of remaining an efficient, independent and unbiased commission in the midst of unprecedented ongoing corruption scandals, political intrigues, monetised politics and judicial impropriety. Critics blame the EFCC for not doing enough to stop the endemic grand corruption in Nigeria. (Bolaji Owasanoye, 2014:22) graphically showed the amounts allegedly embezzled from Federal level (N22,306,600,000) to the State Government level (N154,111,800,000) in Nigeria.



Source: Bolaji Owasanoye (2014:16).

The figure in Owasanoye's book presented graphically above is mind-boggling and puts the efficiency of the EFCC under intense scrutiny. The obvious observation is that, despite the legislative and executive backing, the EFCC has performed relatively lower, for instance, than the Hong Kong system which it was modelled after (Rose Ackerman 1999:158-162). The EFCC is also criticised for over-reliance on "plea bargaining", a notorious bargain chip regularly used by the EFCC for obtaining settlement for most of the celebrated cases. It now appears that Nigeria official kleptocrats rely on "plea bargaining" as a legal way of circumventing the full legal sanctions for indulging in corrupt acts. Plea bargaining, of American origin is a legal process that allows "prosecutors and trial judges offer defendants concessions in exchange for their pleas" (Albert Alschuler, 1968:50). It consists of the exchange of official concessions for a defendant's act of self-conviction. One of the most prominent corrupt families in Nigeria, the Abacha clan, is known to have entered into plea bargain to keep $1billion of their loot in order to facilitate the family's return of over $100 billion of the looted funds to the federal government (This Day, 3 July 2014; SERAP). While this defeats good moral principle and accountability, the Nigerian government was happy to agree to the deal arguing that "they saved Nigeria exorbitant legal fees and ended an endless case" (Jubril Oke, 2012:345). The process of "plea bargain" as used by the EFCC was cited also by Inyang, Peter and Ejor (2014) as an impediment to stamping out corruption in Nigeria. Through this process, indicted corrupt officials merely relinquish a part of their loot while still enjoying the remainder, and at the same time evading prison terms. (Inyang etal; 2014; Olaniyan, 2014: 9). This sends the wrong signals to the public that after all, it is still profitable to be corrupt. Human Rights Watch identifies cases against, Tafa Balogun, the former police Chief, Lucky Igbinedon, former Edo State governor, the late Diepreye Alamieyesiegha former governor of the oil rich Bayelsa state and Chief Olabode George, the former chairman of the Nigerian Ports Authority as among the key plea bargain cases that involved dropping some of the most serious charges against the accused (Human Rights Watch, 25 August 2011).

The EFCC recently published the Commission's milestone in prosecuting corruption tagged "High Profile Cases 2000-2010" (Inyang et al, 2014). This is in reaction to public outcry for the commission to justify its existence in the light of the systemic nature of grand corruption in Nigeria. (Mohammed Usman, 2013).

Comment [f11]: Not so much their efficiency as their effectiveness

Comment [f12]: After which it was modelled

Table 1: Showing Economic and Financial Crimes Commission (EFCC) High Profile Cases 2000 – 2010

S/N	Name	Case status	Amount of money involved	Status of suspect (s)
1	Ayo Fayose (former Governor of Ekiti State)	Arraigned on 51 counts	N1.2 billion	Case pending, granted bail
2	Adenike, Grange (former Minister of Health)	Arraigned on 56 counts	N300 million	Discharged and acquitted
3	Joshua Dariye (former Governor Plateau state)	Arraigned on 23 counts	N700 million	Case pending, Granted bail since 2007
4	Saminu Turaki (former Governor Jigawa state)	Arraigned on 32 counts	N36 billion	Case pending, Granted bail since 2007
5	Oji Uzor Kalu (former Governor Abia state)	Arraigned on 107 state counts	N5 billion	Case pending, Granted bail since 2008
6	James Ibori (former Governor Delta state)	Arraigned on 170 counts	N9.2 billion	Case pending, Granted bail since 2008 as he is currently serving jail term in the UK
7	Iyabo Obasanjo (former Senator)	Arraigned on 56 state counts	N10 million	Case pending, Granted bail since 2008
8	Lucky Igbinedion (former Governor of Edo state)	Arraigned on 191 state counts	N4.3 billion	Case determined, ordered to pay $25 million as fine
9	Gabriel Aduku (former Minister of Health)	Arraigned on 56 state counts	N300 million	Discharged and acquitted
10	Jolly Nyame (former Governor of Taraba	Arraigned on 41 state counts	N1.3 billion	Case pending, state) 2008

11	Chimaroke Nnamani (former Governor of Enugu state)	Arraigned on 105 state counts	N5.3 billion	Case pending, Granted bail since 2007
12	Michael Botmang (former Governor of Plateau state)	Arraigned on 31 state counts	N1.5 billion	Case pending, Granted bail since 2008
13	Roland Iyayi (former MD of FAAN)	Arraigned on 11 state counts	N5.6 billion	Case pending, Granted bail since 2008
14	Prof. Babalola Borishade (former Minister of Aviation)	Arraigned on 11 state counts	N5.6 billion	Case pending, Granted bail since 2008
15	Boni Haruna (former Governor of Adamawa state)	Arraigned on 28 state counts	N254 million	Case pending, Granted bail by court since 2008
16	Femi Fani kayode (former Minister of Aviation)	Arraigned on 47 state counts	N250 million	Case dismissed in June 2014. Granted bail since 2008
17	Bode George (PDP Chieftain)	Arraigned on 68 state counts	N100 billion	Jailed in October 2009
18	Rasheed Ladoja (former Governor of Oyo state)	Arraigned on 33 state counts	N6 billion	Case pending, Granted bail since 2008
19	Senator Nichola Ugbane; Hon. Elumelu and others	Arraigned on 158 state counts	N5.2 billion	Case pending, Granted bail since 2009
20	Hamman Bello Hammed (Ex CG Customs)	Arraigned on 46 state counts	N2.5 billion	Case pending, Granted bail since

				2009
21	Adamu Abdullahi (former Governor of Nasarawa state)	Arraigned on 149 count charge	N15 billion	Case pending, Suspect on court bail
22	Attahiru Bafarawa (former Governor of Sokoto state)	Arraigned on 47 count charge	N15 billion	Case pending, Granted bail by court
23	23 Hassan Lawal (former Minister of Works)	Arraigned on 37 count charge	N75 billion	Case pending, Granted bail by court
24	24 Kenny Martins (Police Equipment Fund)	28 count charge	N7,740 billion	Case pending, Granted bail since 2008
25	Esai Dangabar, Atiku Abubakar Kigo, Ahmed Inuwa Wada, John Yakubu Yusufu, Mrs. Veronica Ulonma Onyegbula and Sani Habila Zira	16 count charge	N32.8 billion	Case on going, Granted bail by court

Source: Economic and Financial Crime Commission (EFCC) cited in Mohammed Usman "Corruption in Nigeria: A Challenge to Sustainable Development in the Fourth Republic" (2013) European Scientific Journal February 2013 edition vol.9, No.4 e - ISSN 1857- 7431.

The publication of the high-profile cases show that despite the gains made by the EFCC, the problem of grand corruption continues to soar. Human Rights Watch (25 August 2011) disagrees with the purported gains of EFCC's 'high profile cases' arguing that "in term of pure numbers, the sum total of the EFCC convictions of nationally prominent political figures is underwhelming: a mere four convictions in eight years - between 2003 and July 2011. This represents less than 5% of the total high profile corruption cases between 2003 and 2011". Thus, while the existence of these institutional and legal frameworks directly confirms the endemic nature of grand corruption in Nigeria, the institutional framework like the EFCC that is backed by enabling legislation has not been effective to stem the tide of grand corruption. The question is why is this so? Is it a question of law enforcement or issues with the legal framework? Oko (2001-2002) argues that the laws on corruption in Nigeria are carefully

crafted and issues of pervasive corruption have nothing to do with legal drafting. In other words, by implication, anti-corruption frameworks and agencies may be gimmicks employed by some states as ploys for attracting donor funds whereas there is no evidence of political will to back the anti-corruption projects (Oko, 2002:404). Some writers argue strongly that regimes without strong political will to combat grand corruption are totally dishonest with their intents (John Mbaku, 2010:145). For instance, Paul Okojie and Abubakar Momoh (2005: 112) suggest that anti-corruption laws and initiatives fail because countries enter into bilateral or multilateral treaties on anti-corruption without a sincere desire to implement them. This is contrary to the original intent of both bilateral and multilateral development agencies that "have placed anti-corruption strategies at the heart of their efforts to strengthen governance in beneficiary countries" (Sarah Bracking, 2005: X). Arguably, donor treaties in systemic corrupt nations proliferate for the purpose of satisfying the demands of international financier. The extent of the veracity of this claim is an area worth researching further considering the fact that Nigeria is a signatory to anti-corruption Treatise, yet remains ravaged by systemic grand corruption.

The EFCC argue somewhat differently on why they have been performing below the public expectation. They argue that Nigeria's situation is critical and the agency is overwhelmed by exceptional high incidence of corruption at the public and the private sectors. The unending list of cases catalogued on its website shows how critical the situation is. EFCC blame mostly the justice system that permits accused persons to use frivolous technicalities to delay the course of justice and this is often done in orchestrated conspiracy and connivance of some lawyers and court judges (Nuhu Ribadu, 2004). Other reasons given by the EFCC includes; budgetary constraints and issues associated with funding, court administrative bureaucracy involving transfer and promotion of judges; court congestion and undue slow pace of court proceedings as some of the drawbacks precluding it from satisfactory performance (Ibrahim Magu, 2015). EFCC has also been criticised for lack of staff with the necessary expertise in prosecuting corruption offences. Cases abound where technical lapses from the EFCC has defeated or prolonged cases unduly. There are also issues of weak evidence presented at trials as well as hostile and uncooperative witnesses. To draw home this argument, how can EFCC list about 100-150 count charges on a given case? The charges listed for instance, in the case of Raymond Dokpesi of DAAR Communications accused of complicity in the $32 billion arms fund supports this argument. It is this type of lapse in legal technicality has surrounded

Comment [f13]: ?

Comment [f14]: Do you mean treaties?

Comment [f15]: Where?

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most of the unduly prolonged EFCC cases and explains what Bolaji Owasanoye (2014) highlights as “high profile corruption cases crawling or gone to sleep”.

Notwithstanding these shortcomings, the EFCC has succeeded in achieving some high profile convictions. According to the present chairman of the EFCC, Ibrahim Magu, the EFCC is set to achieve increased numbers of under the provisions of the Administration of Criminal Justice Act, (ACJA) 2015. The revolutionary Act has emboldened the EFCC by removing most of the hurdles in the way of corruption prosecution. Most cases previously left in abeyance due to technicalities can now be resuscitated as section 15 of the ACJA, 2015 empowers the EFCC to investigate all corruption cases including, those with subsisting court injunctions. As a result, corruption cases with perpetual injunctions like the case of Peter Odili, the former governor of Rivers State would be re-opened (Daily Post, 17 Dec 2015).

Comment [f20]: Number of what?

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Conclusion

Corruption is not a victimless crime. It affects and impacts directly on individuals and by so doing affect the rights of vulnerable people. To address the key question driving this article, it appears that empirical evidence supports the claims that corruption is indeed the cancer and the bane of Nigeria. While this article is not intended to chronicle exhaustively the corruption scandals in Nigeria, evidence from the corruption scandals addressed points to the systemic and endemic grand corruption in Nigeria. It is daunting that both former Presidents agree that Nigeria is plagued with endemic corruption, but at the same time, chose to play blame games rather than advocate sustainable ways of combating the malaise. This stands in stark contrast to Section 15 (5) of the 1999 Constitution, which provides that “the state shall abolish all corrupt practices and abuse of power”.

This paper attributes the non-realisation of socio-economic rights in Nigeria as a driver of endemic corruption as surplus funds in the polity may not strictly and legally be destined for public infrastructural growth and development due to constitutional limitations. The fact that

no court in Nigeria is constitutionally empowered to adjudicate on socio-economic rights precludes people from seeking judicial remedy and this in turn, enables corrupt public servants to amass huge sums of money without any corresponding platform for accountability and transparency. Undoubtedly, one of the consequences of non-realisation of socio-economic rights in Nigeria is the avenue it creates for corrupt public officials and their cronies to stash funds meant for national development in overseas safe havens. Therefore, it is not surprising that a cursory glimpse at the state of the nation would reveal dilapidated infrastructures, appalling healthcare facilities, crippled education system, lack of public utilities, decayed social services; all these are indicative of the betrayal of trust by those entrusted with public resources.

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While there is ongoing judicial and political activism to make generically socio-economic rights justiciable in Nigeria and enhance accountability and transparency, it is shocking to imagine that even when stolen/looted funds are traced and repatriated through international collaborations, the same funds are re-looted shortly after repatriation by the senior officials that facilitated the tracing in the first place, a classic example being the disbursement of about $322 million Abacha loot from the Ministry of Finance to the Office of the National Security Adviser (Olaniyan, 2014: 10; Punch, 11 Dec 2015). It is unfortunate that the Nigerian justice system has not effectively prosecuted most of the oligarchs that have held the state captive for a long time. A comparison with the sentencing of the former Prime Minister of Israel, Ehud Olmert (Wall Street Journal, 13 May 2014) and the son of the Senegalese ex-President, Karim Wade (Daily Mail, 23 March 2015) drives home the argument of this paper that robust political will (Hatchard, 2014: 28-31) could go a long way in ameliorating the scourge of the systemic grand corruption in Nigeria. Leaders with strong political will have eluded Nigeria for a long time (ActionAid Nigeria, 2015:16). Nigeria needs “the sense of fairness, rationality, compassion, patriotism and humanity in the ruling class…”(Fombad et al, 2015: 727) in order to combat the cancer of corruption.

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This paper argues for exhaustive law and institutional reform in Nigeria, but the extent to which this could be achieved in the light of obvious weak and overburdened judiciary remains another topic worth investigating. With the coming into office of the new civilian regime led by President Muhammed Buhari which portends zero-tolerance for corruption, the appointment of a new Head for the anti-corruption agency (EFCC) and the enactment of the Administration of the Criminal Justice Act (ACJ Act) 2015, it appears that there may be some glimmer of light within the dark tunnel of Nigerian grand corruption

practices. For sceptics who wonder why the fuss about grand corruption, it is opportune to reflect on the South African constitutional Court ruling of *Glenister v President of The Republic of South Africa & Ors* (CCT48/10) [2011] ZACC 6, 176-77), establishing the close link between corruption and human rights. The Court held that:

> "There can be no gainsaying that corruption threatens to fell at the knees virtually everything we hold dear and precious in our hard-won constitutional order. It blatantly undermines the democratic ethos, the institutions of democracy, the rule of law and the foundational values of our nascent constitutional project. It fuels maladministration and public fraudulence and imperils the capacity of the state to fulfil its obligations to respect, protect, promote and fulfil all the rights enshrined in the Bill of Rights. When corruption and organised crime flourish, sustainable development and economic growth are stunted. And in turn, the stability and security of society is put at risk".

Moreover, reading this in conjunction with the ECOWAS Court ruling on the justiciability of the right to education, it becomes obvious that corruption hinders the ability of States to combat poverty and also precludes States from delivering their human rights obligations. Thus, there are established legal precedents that emphasise that corruption is not just an abstract concept, but that it impacts adversely on people. Hence, reading from the jurisprudence of South Africa, it is damning that Nigerian courts are lagging behind in prosecuting corruption cases despite the backlog of high profile corruption cases pending in different courts before them (Bolaji Owasanonye, 2014). It is also appalling that the Nigerian justice system sometimes uses technicalities in the form of frivolous and vexatious challenges to defeat the course of justice. According to Nuhu Ribadu, (2004) it has "become an "art" for defence attorneys to ensure that financial crime cases do not go and substantive cases are never tried on their merits. Defence attorneys delay and prolong cases by a tactic of applying for stay of proceedings. Where such application is not granted, they accuse judges of bias, which provide grounds for an application to transfer their cases to other judges". In these circumstances, one question that resonates is where has the transparency and the independence of the judiciary gone to in Nigeria? Is the justice system no longer the hope of the common man? According to Transparency International (5 October, 2015) "we urge the Nigerian people to support this move by the current Nigerian government and set aside ethnic, religious, geographical or political affiliations, as this is the only way corruption can be curbed and all stolen monies used to foster the much needed development in the country. We urge the government of Nigeria to be steadfast and focused in the determination to ensure

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that corrupt individuals are brought to book and further ensure that all the leakages are blocked through strengthened public institutions".

This paper submits that the letter written by former president Obasanjo to former President, Jonathan, was timely and a wake-up call to Nigerians. In essence, Obasanjo stated the obvious, and the reply he received from President Jonathan confirms that endemic grand corruption is the cancer of Nigeria and in the words of former World Bank's President, James Wolfensohn "we need to deal with the cancer of corruption" (Wolfensohn, 1996). The onus is on Nigerians to rise up to the challenge and deal with the "cancer of corruption" and this call is rekindled by the recent assertions of President Muhammed Buhari (The Sun: 12 December 2015) that "without our collective will to resist corrupt acts as a people, it will be difficult to win the war. Nigeria has been brought almost to her knees by decades of corruption and mismanagement of the public treasury. We must come to a point when we must all collectively say enough is enough. If this country will realise her potentials, and take her rightful place in the comity of nation, we must collectively fight corruption to a standstill. If we don't kill corruption, corruption will kill Nigeria".

Comment [f25]: nations

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