

Analysis of International Control of Judicial Corruption: Nigeria As a Case Study

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Abstract

This paper examines the contributions of international conventions and instruments to judicial corruption particularly in Nigeria. It also analyzes judicial corruption as a global problem but particularly in developing countries such as Nigeria. It acknowledged the importance of the domestication of the United Nations Convention Against Corruption to fight judicial corruption. This led to the enactment of the Economic and Financial Crimes Commission (Establishment) Act, 2004 which has been a potent statute in fighting corruption in Nigeria. Curbing corruption will result in an increase in public trust in the affairs of governance. The paper concludes with a call for fairness and transparency in judicial appointments and a corrupt free judiciary. It also calls on the NJC to be truly independent and extricate itself from the strings of the executive in order to reposition the Nigerian judiciary. It also calls on the National Judicial Council to be truly independent and extricate itself from the strings of the executive in order to reposition the Nigerian judiciary for public trust and confidence.

Keywords: Corruption, Convention, Judiciary, Protocol, Judex, Crime, Bribe, Proceed Of Crime, Accountability

1. INTRODUCTION

The dispensation of justice is within the jurisdiction and purview of the judiciary globally. The judiciary is tasked with the responsibility of the interpretation of law, determination of the rights of the citizenry of any nation and protection of the liberties of the people. It resolves disputes among the arms of government and

between the government and the people¹. In the performance of these onerous duties, the judiciary must be independent. In other words, it must be free from interference from the executive and legislative arms of government.² This power of adjudication over disputes and interpretation of laws is donated to the judiciary by the *grundnorm*.³ The judiciary is therefore a potent organ for the maintenance of law and order and the just administration of human affairs because it is what the judge decides that is the law.⁴ This places the judiciary at the centre of the legal system and by completely emasculating the statute, have replaced the traditional assumption that there can be certainty in the application of rules with the assumption that one of the several sources of law, i.e. judge-made law, is the law and exclusively so.⁵ The existence of the judiciary reinforces the observance of the rule of law in any democratic society. It checks and ensures the balancing of power so that despotism is not introduced into constitutional governance. Therefore, the judiciary should be insulated from corruption.

Corruption has its effects on the legal system and the macro – economics of any nation. It affects the morale of the *judex*, productivity and output. It undermines the principle of equality before because corrupt persons can deploy their resources to influence the *judex* in order to escape justice.⁶ Judicial corruption compromises judges and judicial officials. It is a gateway to abuse of power.⁷ Hence, it became a global concern for the United Nations and other international bodies and agencies to intervene to stem the tide of judicial corruption.

2. INTERNATIONAL INSTRUMENTS RELATING TO JUDICIAL CORRUPTION

The following international instruments: Economic Community of West African States Protocol on the Fight against Corruption, 2001, African Union Convention on Preventing and Combating Corruption, 2003 and United Nations Convention against Corruption, 2003 have some specific provisions that relate to control of judicial corruption. These international instruments will be considered in relation to control of judicial corruption.

2.1 Economic Community of West African States Protocol on the Fight against Corruption (ECOWASPFAC), 2001

Realizing the need to eradicate corruption in member States, the Economic Community of West African States promulgated the Protocol on the Fight against Corruption.⁸ ECOWAS member States realized the grave consequences of corruption on investment, economic growth and democracy and the need to adopt preventive and suppressive measures to tackle corruption particularly to ensure that public officials including judicial officers who engage in corrupt acts in the course of their public or judicial duties are penalized.⁹ By Article 1, the Protocol defines a public official to mean a person who is selected, appointed or elected and who performs public duty whether on a permanent or temporary basis. It also defines a public duty or function as any temporary or permanent, paid or honorary activity done by a person in the name of the State or under its direction, control and authority.

¹ E Essien, 'The Judiciary and Democracy in Nigeria: A Case for Independence of Nigeria Judiciary' in FAO Yussuf (ed), *The Nigerian Judiciary – Perspectives & Profile* (FHL Publishers, 2006) 2.

² E Essien, 'The Judiciary and Democracy in Nigeria: A Case for Independence of Nigeria Judiciary' in FAO Yussuf (ed), *The Nigerian Judiciary – Perspectives & Profile* (FHL Publishers, 2006) 2.

³ *Ibid.*

⁴ A Ibidapo - Obe, 'Judicial Sovereignty under Nigerian Constitution since 1960' in FAO Yussuf (ed), *The Nigerian Judiciary – Perspectives & Profile* (FHL Publishers, 2006) 21.

⁵ F Adaramola, *Jurisprudence* (LexisNexis Butterworths, 2008) 282.

⁶ T Aderoju, 'The Impact of Corruption on the Rule of Law and the Effective Administration of Justice using Nigeria as a Case Study' <<https://www.ibanet.org>> accessed 31 March, 2026.

⁷ *Ibid.*

⁸ The Protocol was signed on 21 December, 2001 in Dakar, Senegal.

⁹ The preamble to the ECOWAS Protocol on the Fight Against Corruption, 2001.

Judicial officers are appointed to their judicial office. They are paid officers of the State who in most cases are on permanent or tenured employment subject to the mandatory or statutory retirement age. Judicial officers discharge their functions on the authority of the State. They are therefore public officials within the definition of the protocol. It is the aim and objective of the protocol to promote and strengthen the development among member States of effective mechanisms to prevent, suppress and eradicate corruption.¹⁰ As part of the preventive measures, the protocol stipulates that there should be transparency and efficiency in public service including judicial functions.¹¹ Public officials including judicial officers are enjoined to disclose their assets, liabilities and copies of their income tax returns to relevant authorities. This disclosure is extended to their spouses and young children.¹² In Nigeria,¹³ For example, the public officers including judicial officers disclose their assets in asset declaration forms which are submitted to the Code of Conduct Bureau by virtue of the Code of Conduct Bureau and Tribunal Act for verification. The protocol criminalizes the following as acts of corruption:

- a. the demand or acceptance of anything of pecuniary value, gift, offer, promise or an advantage of any kind in return for an act or omission by a public officer in the discharge of his functions either by himself or through a third party.¹⁴
- b. the offering or giving of any object of monetary value to a public officer in return for an act or omission by a public officer in the discharge of his functions whether by himself or through a third party.¹⁵
- c. the promise to offer or give any undue influence to any person that can exercise some influence on decisions of a person occupying public position. It is immaterial whether the influence was exercised or not or whether the influence produced the desired result or not.¹⁶ This provision will seem to deter spouses, children, friends and associates of judicial officers from exerting influence on judicial officers in the course of their judicial functions.

By Article 7, the protocol prohibits laundering of proceeds of corruption. In other words, it is a crime for any judicial officer to engage in conversion or transfer of any asset having the knowledge that such asset is a proceeds of crime for the purpose of concealment. Articles 10 and 13 provide for sanctions for involvement in corrupt acts by public officers including judicial officers. The sanctions range from monetary sanction to seizure and forfeiture of the proceeds of the crime. To attain the ideal and objective of the protocol, there is mutual legal assistance and law enforcement cooperation by member States.¹⁷

2.2 African Union Convention on Preventing and Combating Corruption (AUCPCC), 2003

Like the ECOWAS Protocol on the Fight against Corruption, the African Union Convention on Preventing and Combating Corruption¹⁸ recognized that corruption undermines accountability and transparency in public service and retards development. Therefore, there is a need for a common penal policy aimed at protecting the society against corruption through appropriate legislative and adequate preventive measures.¹⁹ By Article 1, the Convention defines corruption as acts and practices including related offences proscribed by the Convention. It also defines illicit enrichment to mean the significant increase in the asset of a public officer or any other person which he cannot reasonably explain in relation to his

¹⁰Article 2 of the ECOWAS Protocol on the Fight against Corruption, 2001.

¹¹ *Ibid.* Article 5(b).

¹² *Ibid.* Article 5(g).

¹³ Cap. 15, LFN, 2004 and the Fifth Schedule, CFRN, 1999 (as amended).

¹⁴ Article 6(1)(a) of the ECOWAS Protocol on the Fight Against Corruption, 2001.

¹⁵ *Ibid.* Article 6(1)(b).

¹⁶ *Ibid.* Article 6(1)(c) and (d).

¹⁷ *Ibid.* Articles 15, 16 and 17.

¹⁸ This Convention was adopted on 11 July, 2003 at Maputo, Mozambique.

¹⁹ The preamble to the African Union Convention on Preventing and Combating Corruption, 2003.

income.²⁰ It further defines proceeds of corruption as assets acquired from corrupt means or acts while it defines a public official as a person who is an employee of the State or its agencies whether selected, appointed or elected to perform functions in the name of the State or in the service of the State at any level of its hierarchy.²¹

The Convention has as its objective the need to develop mechanisms required to prevent, detect, punish and eradicate corruption, judicial corruption inclusive and related offences in the public service and private sector. It also has the objective to coordinate and harmonize the policies and legislation between States Parties for the purpose of prevention, detection, punishment and eradication of corruption in Africa.²² The principle of the Convention is that there must be respect for human and peoples' rights in accordance with the African Charter on Human and Peoples Right and other relevant human rights instruments.²³ There must be transparency and accountability in the public affairs²⁴ and there must be censure and rejection of corrupt acts.²⁵ Article 4(1) of the Convention condemns the demanding, giving and acceptance of anything of pecuniary value or other benefit by a public officer in reward for any act done or omission in the discharge of his public duty. It is immaterial whether the reward is done directly or indirectly. It also proscribes illicit enrichment by public officials.

It is argued that by the definition of public official in the Convention, judicial officers are bound by the provisions of the Convention. Therefore, judicial officers cannot indulge in such acts that are prohibited by the Convention as such amounts to judicial corruption. The Convention also proscribes laundering of proceeds of corruption and requires public officials including judicial officers to declare their assets at the time of assumption of office, during and after vacation of office.²⁶ By Article 16, the Convention provides for confiscation and seizure of the proceeds of corruption. It empowers State Parties to search, identify, trace and freeze all proceeds of corruption and to repatriate such proceeds of corruption to the State Party that owns it.

2.3 United Nations Convention Against Corruption (UNCAC), 2003

The United Nations Convention Against Corruption²⁷ came into being as a result of different instruments relating to prevention and combating corruption. It is the concern of the Convention that corruption poses serious obstacles and threats to the stability and security of societies, undermining institutions and democratic values, ethical values and justice. Corruption also frustrates sustainable development and rule of law.²⁸ Therefore, the purpose of UNCAC is to promote and strengthen measures to efficiently and effectively prevent and fight corruption. The Convention also seeks to promote integrity, accountability and proper administration of public affairs.²⁹ The Convention gives an elaborate definition of a public official. In its clear definition, the Convention defines public official to mean any person holding a legislative, executive or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority.³⁰ The provisions of the Convention apply to prevention, investigation and prosecution of corruption, which includes judicial

²⁰Article 1 of the African Union Convention on Prevention and Combating Corruption, 2003.

²¹ *Ibid.*

²² *Ibid.* Article 2.

²³ *Ibid.* Article 3(2).

²⁴ *Ibid.* Article 3(3).

²⁵ *Ibid.* Article 3(5).

²⁶ *Ibid.* Articles 6 and 7.

²⁷ UNCAC was adopted by the UN General Assembly on 31 October, 2003 in New York, United States of America and came into force on 14 December, 2005.

²⁸ The preamble to the UNCAC, 2003.

²⁹ Article 1, UNCAC, 2003.

³⁰ *Ibid.* Article 2(a) and (b).

corruption and to freezing, seizure, confiscation and return of the proceeds of crimes provided for in the Convention.

By Article 5(1) of the Convention, public officers including judicial officers are enjoined to discharge their duties to reflect the principles of the rule of law, integrity, transparency and accountability. They are to act honestly in accordance with the fundamental principles of their legal system.³¹ They are to discharge their duties in accordance with the domestic law of the land and ensure that they report their public official or judicial officer who engages in corrupt acts to the appropriate authority when such acts come to their knowledge in the performance of their duties.³² When there is a breach of code of conduct, such a public official or judicial officer should be disciplined in accordance with the provisions of the Convention taking into account the domestic law.³³

By Article 11 of the Convention, the State is enjoined to take measures to strengthen the judiciary and avoid any opportunity for corruption in the judiciary. One of such measures may include rules with respect to the conduct of judicial officers. Article 15 of the Convention forbids the bribery of judicial officers. It also prohibits a judicial officer from demanding, soliciting or accepting directly or indirectly any advantage to deflect in the performance of his official duty. Article 19 of the Convention prohibits public officials including judicial officers from the abuse of their office. A judicial officer shall not engage in illicit enrichment by illegally acquiring properties that he cannot reasonably explain in relation to his lawful earning.³⁴ Article 23 of the Convention prohibits laundering of proceeds of crime. Article 30 of the Convention provides for the prosecution, adjudication and sanction of any public official including judicial officers who engaged in corrupt acts. The sanctions include an order preventing such a person from holding public office for a period of time.³⁵ In addition, the court can make orders as to freezing, seizure and confiscation of the proceeds of crime which constitute the acts of corruption.

3. IMPACT OF INTERNATIONAL CONTROL ON JUDICIAL CORRUPTION

The world is a global village connecting each other at different planes but with the purpose of attaining world peace. There is therefore the need for global collaboration to fight judicial corruption or control the menace globally. This led to international control and more specifically, international concern and cooperation frameworks such as the United Nation Convention against Corruption (UNCAC). This convention plays a major impact in dealing with judicial corruption by setting normative standards, providing technical assistance and fostering accountability in the judiciary.³⁶ However, it must be noted that the international bodies do not really have direct control over domestic or national judicial systems. They significantly impact on them by ensuring judicial integrity, strengthening capacity and promoting the enforcement of transparent measures.³⁷

In sum, the above international instruments prohibit a judicial officer from engaging in judicial corruption. Where a judicial officer is caught in the web of judicial corruption, he must be prosecuted within the enabling domestic law. These international instruments make provisions for domestication and

³¹ *Ibid.* Article 8(1).

³² *Ibid.* Article 8(4).

³³ *Ibid.* Article 8(6).

³⁴ *Ibid.* Article 20.

³⁵ *Ibid.* Article 30(7).

³⁶ UNODC, 'Strengthening Judicial Integrity Against Corruption' <<https://www.unodc.org>> accessed 31 March, 2026.

³⁷ *Ibid.*

criminalization of offences by State Parties.³⁸ It is in line with this obligation, therefore, that Nigeria enacted the Economic and Financial Crimes Commission Act.³⁹

4. NIGERIA AS A CASE STUDY

In 2022, Nigeria ranked 150 most corrupt countries out of 180 countries in the Transparency International Index.⁴⁰ There is the growing concern over corruption in Nigeria including judicial corruption which is seen as a serious developmental challenge. It is in the bid to curb this menace of corruption that the following statutes were enacted with provisions to combat corruption: the 1999 Constitution, as amended, Money Laundering (Prevention and Prohibition) Act, 2004, Economic and Financial Crimes Commission (Establishment) Act, 2004, Independent Corrupt Practices and Other Related Offences Act, 2000, amongst others. Specifically, the Economic and Financial Crimes Commission (Establishment) Act, 2004 was a domestication of the United Nations Convention Against Corruption. This statute has been an effective legal norm in combating corruption in modern day Nigeria with the aim of reinforcing public trust and confidence in governance including administration of the justice system in Nigeria.⁴¹

Public trust is critical in any democratic society. International interventions are most effective when such initiatives place emphasis on restoration of public trust. Therefore, citizens will not report corruption until they trust the system to afford them protection.⁴² The government must therefore make a conscious effort to provide mechanisms in providing protection to citizens that report cases of corruption to relevant agencies of government. Judicial affairs and appointments should be done in a transparent manner that will instill public confidence in the process and guarantee general acceptability.

5. CONCLUSION

In summary, there is no gainsaying the fact that judicial corruption has created lack of confidence in the judiciary. There is the need to curb corruption especially in the judiciary and in the legal profession. Every stakeholder in the administration of justice must show commitment to the fight against corruption in the legal profession which include the Bar and Bench in order to restore the traditional image of the legal profession.⁴³ Legal practitioners and judicial officers should report erring or corrupt members to appropriate bodies for discipline. The disciplinary bodies should be more efficient to restore the dignity and reputation of the legal profession.⁴⁴

The appointment and elevation of judicial officers should be made public and the public should be given the opportunity to disclose any necessary information about the persons nominated for such appointment or elevation. This will ensure that only persons of impeccable character and integrity are appointed as judges or elevated to appellate courts.⁴⁵

³⁸ Articles 4(1),5,7,10,11,12,13 and 18 of the ECOWAS Protocol on the Fight Against Corruption, 2001; Articles 5,6,9,11 and 16 of the African Union Convention on Preventing and Combating Corruption, 2003 and Articles 5,6,7,9,12, 13,14,15,16,17,18,19,20 and 23 of the United Nations Convention Against Corruption.

³⁹ Appeal No. SC/CR/161/2020: *Dr. Joseph Nwobike, S.A.N. v. Federal Republic of Nigeria* delivered by the Supreme Court on 20 December, 2021 at 21 – 22 where the apex court held that “The United Nations Convention Against Corruption, particularly Article 15 provides for domestication and criminalization of offences under the convention by State parties, in line with this obligation therefore, Nigeria enacted the EFCC Act.... I think it is at this stage improper to import and encompass all criminal offences under the Economic and Financial Crimes Commission (Establishment Act) 2004, the criminal offences contemplated by the Convention must be offences fitting the statement of purpose of the Convention, the criminal offences must not be at large as to include every conceivable criminal offence.” per Tijjani Abubakar, JSC who read the lead judgment.

⁴⁰ Aderoju, n. 6 above.

⁴¹ *Ibid.*

⁴² UNODC, n. 36 above.

⁴³ CC Ani, ‘Corruption in Criminal Justice Administration in Nigeria: Role of the Legal Profession’ [2011] (7) *Nigerian Bar Journal*; 180.

⁴⁴ Y Ali, ‘The Future of Legal Practice in Nigeria: Regulation and Discipline in the Legal Profession’ <<https://www.yusufali.net>> accessed 10 March, 2026.

⁴⁵ AS Awomolo, *Imperative of Judicial Reforms in Ensuring Good Governance and Accountability in Nigeria* (NIALS Press, 2016) 41.

While judicial officers should exercise their discretionary powers, they should in the interest of justice and the fight against corruption, resist any application that is capable of creating public impression that the judicial authority is being used to shield criminality or corruption. A judicial officer should not take bribes. Adediran⁴⁶ quoting Niki Tobi (JCA, as he then was) stated:

A judge who takes bribes is not only a criminal who should be prosecuted; he is also a sinner who is for eternal condemnation ... The Bench is not a place to make money. It is a place to make a name.

Similarly, Musdapher, CJN as he was then, stated that a corrupt judicial officer is more harmful to the society than a man who runs amok with a dagger in a crowded street. The latter can be restrained physically and tamed. But the corrupt judicial officer deliberately destroys the moral foundation of society and causes incalculable distress to members of the society while he still bears the appellation of “honourable.”⁴⁷

In this vein, nobody is above the law. Whenever the National Judicial Council finds a judicial officer guilty of corrupt practices, apart from the punishment by the Council, he should be handed over to law enforcement agencies for criminal prosecution and appropriate sentence passed upon conviction.⁴⁸

The Judicial Service Commission should realize its constitutional role in the discipline of judicial officers as enshrined in the Constitution. There should be a better synergy between the National Judicial Council and the Judicial Service Commission that apart from recommendation of persons for appointment as judges, the Commission has power to recommend for removal of judges from their office for judicial misconduct, abuse of office and corrupt practices. Therefore, the Judicial Service Commission has power to receive, hear and determine complaints against judicial officers upon which it can thereafter exercise the power to recommend the removal from office of the affected judicial officer to the National Judicial Council.

The National Judicial Council should realize that it is not an agency of the executive arm of government. It is an independent body for the efficiency of the judiciary and effective administration of justice in Nigeria. It is not a body that the executive gives orders or dictates instructions like a dummy. It is a high-powered independent body considering the caliber of men that make up its membership. By the pedigree of the members, the independence of the judiciary must begin from the independence of the National Judicial Council through which the judiciary is funded. It must insulate and extricate itself from the strings of the executive in order to reposition the Nigerian judiciary.



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⁴⁶S Adediran, “Judiciary, Corruption and Democracy”, *The Punch* (Lagos, 4 June, 2002) 15.

⁴⁷D Musdapher, ‘The Nigerian Judiciary: Towards Reform of the Bastion of Constitutional Democracy’ being a Keynote Address at the Nigerian Institute of Advanced Legal Studies (NIALS) Conference held on 11 November, 2014.

⁴⁸Ani, n. 43 above at 181.