

CORRUPTION, A CHALLENGE TO HUMAN RIGHTS ENHANCEMENT: BRINGING THE CHALLENGES UNDER THE RADER

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Abstract

Over time in history, the international laws of human rights have steadily achieved a moral plateau and nations are gradually cloaking into the course and paradigm of human rights. Despite this development, corruption births pitiable human rights structure which produces negative response loop to structured human rights framework, challenging the realization of human rights and showcasing it's methodology as imprecise and unattainable. This article seeks to specifically address the barricades which are products of corruption, its sociological effects on human development and the roadmap to sustainable human rights enhancement. The article argues that the effects of corruption on human rights are evident in all societies; it violates the rule of law and endanger its actualization. The article concludes that human rights has become the moral principles by which the structure of state laws are measured, hence corruption having firmly griped the set out human rights sustainable procedures calls for reformation of strategies which entails an unpolluted independence and impartial judiciary, practicable strategies and an uncompromising candour and intrepidity to the defence of human rights.

Keywords: *Corruption, Human Right, Challenges*

Introduction

Corruption does not thrive due to the non-implementation of the rule of law and the creation of state structures for a contented and free society; rather, corruption flourishes where these elements are weak.¹

The impact of corruption on human rights development has been of great concern generally that the UN General Assembly's Agenda 2030 for sustainable development of 2015 mandated all states to significantly reduce corruption and bribery and to return all stolen assets by 2030.² Responding to this critical agenda, the Human Rights Treaty bodies stated that the

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¹ Peirone, Franco (2018). 'Corruption as a Violation of International Human Rights: A Reply to Anne Peters [2018] (29) (4) *European Journal of International Law*, pp. 1297-1302.

² Transforming Our World: The 2030 Agenda for Sustainable Development, GA Res. 70/1, 25 September 2015, Points 16.4, 16.5

mismanagement of funds and corruption are impediments to the distribution of resources to promote equal rights.³ It posits that corruption thwarts government's intention to generate adequate revenue for societal development as monies apportioned for infrastructural development are channeled for personal use.⁴ It has been described as a confusing and inherently clandestine concern both locally and internationally,⁵ characterized by various dimensions of irregularities in different terrain with firm grip on political,⁶ socio-economic development of various countries.⁷

Historically corruption could be said to be as old as the world, as early civilizations have some traces of common illegality and corruption.⁸ Several scholars⁹ seems to come to terms with the fact that corruption, as a malaise, is not prevalent in a specific nation or amongst a particular race but exceeds national boundaries, hence a widespread malaise. It would be appropriate then to say that corruption represents astounding general unwholesomeness in all spheres of our societal life (politically, economically, religiously and culturally).¹⁰ It commences a process of procedural decadence by installing the culture of unscrupulousness and undistorted duplicity, which creates room for all sorts of moral unruliness that, wears down every rational societal value. It mutilates with rottenness and disintegrates structured governmental framework for societal enhancements. This disrupts the attainment of the society's development goals and allows the misappropriation of the nation's posterity. According to human rights treaty body, the effect of this malaise on the distribution of available resources on equal basis has been recognized as an impediment to the sustainability of gender equality.¹¹ This has birthed pitiable human rights records in highly rated corrupt countries;¹² with negative impacts on the

³ Human Rights Treaty Bodies, Contributions to the 2030 Agenda for Sustainable Development, May 2016, at 7.

⁴ Human Rights Treaty Bodies, Contributions to the 2030 Agenda for Sustainable Development, May 2016, at 7.

⁵ USAID Programme Brief- Reducing Corruption in Judiciary (2009) Office of Democracy and Governance

⁶ Rose-Ackerman, 'Corruption and Post-Conflict Peace Building' [2008] (15) (3) NONULR 328-343

⁷ Egwemi, V. 'Corruption and Corrupt Practices in Nigeria' (2012) (14) JSDA 72.

⁸ Dike, V.E. (2005), Corruption in Nigeria: A New Paradigm for Effective Control, Africa Economic Analysis, <http://www.africaeconomicanalysis.org/articles/gen/-corruptiondikehtm.html> accessed 23 May, 2022

⁹ Pearson, AV, 'An International Human Rights Approach to Corruption', in P. Larmour and N. Wolanin (eds), Corruption and Anti-Corruption (2001) 30.; See also, International Council on Human Rights Policy and Transparency International (prepared by Magdalena Sepúlveda Carmona), Corruption and Human Rights: Making the Connection (2009); M. Boersma and H. Nelen (eds), Corruption and Human Rights: Interdisciplinary Perspectives (2010); M. Boersma, Corruption: A Violation of Human Rights and a Crime under International Law (2012); K. Olaniyan, Corruption and Human Rights Law in Africa (Ibadan Press, 2014).

¹⁰ Okunola, M. (1991), "Evolving a Legal and Institutional Framework for Combating Corruption and Other Economic Crimes in Nigeria", in Kalu, A.U.; Osinbajo, Y. (eds.), Perspectives on Corruption and Other Economic Crimes in Nigeria, Lagos: Federal Ministry of Justice Law Review Series, pp. 195-198; Oyebode, A. (1999), "An Overview of Corruption in Nigeria", Paper presented at the round table on the Impact of Corruption on the Political Reform and Economic Recovery of Nigeria, organized as part of the 20th Anniversary Celebration of the Nigerian Institute of Advanced Legal Studies, Nigerian Institute of Advanced Legal Studies, Akoka, Yaba, Lagos State, March 30-31.

¹¹ Human Rights Treaty Bodies Contribution to the 2030 Agenda for Sustainable Development. May 2016, 7

¹² T. Landman and C.J.W. Schudel, Corruption and Human Rights, Empirical Relationships and Policy Advice, Working Paper (2007)

enjoyment of human rights¹³ as it erodes transparency, accountability and integrity.¹⁴ According to Transparency International's Corruption Perceptions Index of 2017, highly rated corrupt countries have enormous human rights challenges,¹⁵ as the rule of law which is the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary power on the part of government¹⁶ is crumbled, thus giving rise to various societal disorder and rancour, the right to healthy environment and sustainable future appears bleak as resources for environmental sustainability is diverted thus encumbering economic growth and democracy. In *Attorney-General Ondo State v Attorney-General Federation*¹⁷ Uwais CJN (as he then was) held that “*corruption is not a disease which affects public officers alone but society as a whole and it is therefore to be eradicated effectively, the solution to it must be pervasive to cover every segment of the society*”

Several scholars have described corruption as a social menace that has eaten deep into the fabric of societies and has been considered as one of the highest challenge to economic and political growth that undermines human rights.¹⁸ Consequently the challenges of corruption remain a concern and crucial devastating matter overtime, having eaten deep into the societal structure and fabrics of institutions.

Defining Corruption

According to Transparency International, corruption is the misuse of entrusted power for personal benefit.¹⁹ It is the glorification of illegitimate act which contaminates principled

¹³ United Nations General Assembly (UNGA), Preventing and Combating Corrupt Practices and the Transfer of Proceeds of Corruption, Facilitating Asset Recovery and Returning Such Assets to Legitimate Owners, in Particular to Countries of Origin, in Accordance with the United Nations Convention against Corruption, Doc. A/RES/69/199, 5 February 2015, preamble; Human Rights Council, Best Practices to Counter the Negative Impact of Corruption on the Enjoyment of All Human Rights, Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/22, 15 April 2016; Human Rights Council, The Negative Impact of Corruption on the Enjoyment of Human Rights, Res. 29/11, 2 July 2015; Final Report of the Human Rights Council Advisory Committee on the Issue of the Negative Impact of Corruption on the Enjoyment of Human Rights, UN Doc. A/HRC/28/73, 5 January 2015, especially para. 21; Navi Pillay, High Commissioner for Human Rights, Opening Statement of the Panel on the Negative Impact of Corruption on Human Rights, 13 March 2013, at 8–10.

¹⁴ United Nations General Assembly (UNGA), Preventing and Combating Corrupt Practices and the Transfer of Proceeds of Corruption, Facilitating Asset Recovery and Returning Such Assets to Legitimate Owners, in Particular to Countries of Origin, in Accordance with the United Nations Convention against Corruption, Doc. A/RES/69/199, 5 February 2015, preamble; Human Rights Council, Best Practices to Counter the Negative Impact of Corruption on the Enjoyment of All Human Rights, Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/22, 15 April 2016; Human Rights Council, The Negative Impact of Corruption on the Enjoyment of Human Rights, Res. 29/11, 2 July 2015; Final Report of the Human Rights Council Advisory Committee on the Issue of the Negative Impact of Corruption on the Enjoyment of Human Rights, UN Doc. A/HRC/28/73, 5 January 2015, especially para. 21; Navi Pillay, High Commissioner for Human Rights, Opening Statement of the Panel on the Negative Impact of Corruption on Human Rights, 13 March 2013, at 8–10.

¹⁵ human rights situation, see Amnesty International Report 2016/17 (2017)

¹⁶ Dicey, A. V., *The Law of the Constitution*, ed. Michener, Roger E. (Indianapolis, 1982), 120

¹⁷ (2002) 9 NWLR(Pt.772) 222,306,364

¹⁸ UN Human Rights Commission, Sub-Commission on the Promotion and Protection of Human Rights, Resolution E/CN.4/Sub.2/2005/L.24/Rev.1, 5 August 2005, second preamble paragraph: ‘Deeply concerned that the enjoyment of human rights, be they economic, social and cultural or civil and political, is seriously undermined by the phenomenon of corruption’ (emphasis added).

¹⁹ Transparency International <https://www.transparency.org> accessed 20 May 2022.

organizational structure.²⁰ Although without specific economist definition,²¹ corruption connotes different things to different scholars hence what is considered as corruption in a specific society may likely not be considered as such in another.²² Jain,²³ defined corruption as the misuse of authority of public office contrary to prescribed rules of engagement for private gain. This involves the misallocation of resources which drastically reduces the efficiency of the system.²⁴ But Osoba²⁵ described corruption as an anti-social conduct of taking/accepting gratification against approved permissible standards while others described corruption as a dysfunctional act which challenges and wrecked the citizen's.²⁶ Perverting structured governmental measures which in turn weakens the objectivity of institutions and procedures and alters policies and priorities. Ogbunwezeh²⁷ argues that corruption has recently been acknowledged as an impediment to economic advancement and democracy in Nigeria. This malaise he described as the canonization of fraudulence; the brazen celebration of impunity, which pollutes the ethical hygiene of a society.

A broader definition of corruption was proffered in the Economic and Financial Crime Commission Act 2010 thus:

Corruption includes non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or organized manner thereby violating the existing legislation governing economic activities of the government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt practices, illegal arm deals, smuggling, human trafficking, child's labour, illegal oil bunkering, illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property, piracy, open market abuse, dumping of toxic waste and prohibited goods.²⁸

²⁰ Ogbunwezeh, E.F. (2005), "Nigeria's War on Corruption and Prevailing Ontologies", Nigeria World Feature Article, March 31, <http://nigeriaworld.com/articles/2005/-mar/311.html> accessed 3 June 2022

²¹ Aidt, T. S. 'Economic analysis of corruption: A survey.[2003](113) *Economic Journal* 632–652..

²² Gyimah-Brempong, K. 'Corruption, Economic Growth, and Income Inequality in Africa [2002] 3 (3) *Economics of Governance Journal* 183–209

²³ Jain, A. K. 'Corruption: A Review' [2001]15 (1) *Journal of Economic Surveys* 71–121.

²⁴ Gyimah-Brempong, K. 'Corruption, Economic Growth, and Income Inequality in Africa'[2002]3 (3) *Economics of Governance Journal*, 183–209

²⁵ Osoba, S.O. "Corruption in Nigeria: Historical Perspectives" [1998] 23 (69) *Review of African Political Economy*, A Tribute to A.M. Babu. 378.

²⁶ Heidenheimer, J.A., Johnston, M and Victor T. Le Vine. *Political Corruption*. (New Jersey: Transaction Publishers.1993) <http://www.worldbank.org/html/extdr/corruption/> accessed 20 May, 2022

²⁷ Ogbunwezeh, E.F. "Nigeria's War on Corruption and Prevailing Ontologies", Nigeria World Feature Article, 2005 <http://nigeriaworld.com> accessed 29 May 2022.

²⁸ Economic and Financial Crime Commission Act 2010, Section 2 and 46

The definition above is all encompassing as it brings to fore conducts that contravenes procedural acceptable standards, all of which deprives humanity of availability of amenities and sustainable health.

Effect of Corruption on Human Rights

- Corruption has overwhelming effect on the obtainability, worth and accessibility of human rights-related amenities. It weakens the operational procedures and functioning of institutions and the rule of law. Crates avenue for mismanagement and diversion of public funds leaving governments with little or no resources to accomplish human rights responsibilities. Typically of such is the right to adequate standard of living²⁹ whose deprivation disallows the attainment of the collective right to development.
- Rights to equality and non-discrimination (civil and political rights)
Corruption encourages denial, deprivation and disenfranchisement. The right to equality³⁰ is ingrained to in all major human rights treaties emphasizing on equality of all human persons without discrimination of any kind. This very important right is often treated with utmost disdain where corruption thrives with discrimination. Corrupt practices are discriminatory in some circumstances because they basically discriminate, disregard, limit or prefer one to another with the aim of effecting, invalidating or weakening the equal recognition, enjoyment or exercise of human rights.³¹ For example when one is requested to pay some money before obtaining a public services, and some other person is attended to without such requisition. In this scenario, the person's right to be treated equally is violated due to the inability to afford the requisite amount of money.³² The rights to equality and non-discrimination are further violated when non-monetary actions of abuse of power take place. Typical of such is when sex or the human body is demanded in exchange.
- Judiciary is considered as the citadel for protecting of human right of citizens against violations caused by corruption. Thus, the judiciary cannot execute its mandate of preserving human rights except it is free from the dominance of the executive power and inducements. Within the judiciary corruption erodes the integrity, impartiality and independence of the judiciary and crumbles the right to fair hearing. The lack of independence of judges, prosecutors and lawyers directly harms the right to a fair trial.

²⁹ International Covenant on Civil and Political Rights, article 11

³⁰ International Covenant on Civil and Political Rights, article 2(1); section 42 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

³¹ International Council on Human Rights Policy (ICHRP) (2009). *Corruption and Human Rights: Making the Connection*. Geneva, Switzerland, p32

³² Boersma, Martine, *Corruption: A Violation of Human Rights and a Crime under International Law?* School of Human Rights Research Series [2012](56) *Cambridge law Journal* 23; Figueiredo, U.F and André T.D. *Corruption and Human Rights – Beyond the Link*. (Wolf Legal Publishers, 2017) 72

It limits the effective and efficient administration of justice and the credibility of the whole justice system and fosters impunity amongst corrupt actors as it is with the persisting culture of disobedience to orders of court.³³

- It allows for obligational compromise of States' towards fulfilling, promoting, respecting and protecting the human rights of persons within their jurisdictions. For example, the right to education, this is crucial for human self-actualization and societal development and an indispensable right which is an essential path to attaining other human rights.³⁴ Termed as a vehicle for empowering the underprivileged and enhancing societal and economic principles.
- Like cankerworm, corruption has eaten deep into the fabric of the society, slowing down economic growth by decreasing human capital development as less attention is given to the educational sector and monies meant to educational enhancement is diverted or misappropriated.
- The health sector and health care system is left in a sorry and dilapidated state.
- Corruption births misallocation of resources, most of which are never accounted for and inadequate domestic investment, less provisions of social amenities and transfers to the poor, and high inequality and poverty, among other things.³⁵
- As one of the many unsolved challenges, corruption critically affects economic development. It cripples transformation due to lack of accountability.
- Corruption wears down the ethical values and slows down macroeconomic growth, transformation, and development.
- It contributes massively to the unpleasant poverty circle, unemployment, and decay in public infrastructures as corruption subdues a nations industrial and economic development.

Irrespective of diverse opinion of scholars on the concept of human rights, it is agreeable that human rights are inherent in man by virtue of their humanity and not a gift from the sovereign,³⁶ they are not claims based on parochial interest but inherent hence are non-derogable and are laced with universal tenets globally without discrimination regardless of status,³⁷ being an inalienable and imprescriptible gift innate in man. Regrettably, the effect of widespread corruption on societal development has significantly twisted the tenets of human rights, as the vulnerable are obviously denied their right due to their susceptibility. Corruption hinders and damages the economy in countries where corruption is systemic, it leads to the collapse of governments and institutions which allows for breach of human rights, births unlawful and

³³ *Ibid*

³⁴ Coomans, Fons (2010). Education and Work. In International Human Rights Law, Daniel Moeckli, Sangeeta Shah, and Sandesh Sivakumaran, eds. (Oxford University Press,2010) 281

³⁵ *Ibid*

³⁶ Obaseki, A.O., ' The Judiciary and Human Rights ' in Y Osinbajo and A Ukalu (eds), Perspectives on Human Rights (Federal Ministry Of Justice ,1992)) 17

³⁷ Oladele OAB and Ademola KF ' Human Rights in Multiculturalist World: The Myth and Reality in Continental Africa and Afro-Diaspora ' [2003](6)(2) *African Law Journal*, 51

unprincipled conduct like extra-judicial killing, truncates the rule of law and contributes to its destruction by waning societal confidence in institutions and governments. The ill allows the establishment of duplicity this contaminates the principles of a society and disenfranchises the citizens of their legitimate rights.

Corruption commences the practice of social decadence by enthroning the reign of rogues and unvarnished dishonesty. It allows ethical recklessness, and invites a normative chaos, that erodes every social value. This cankerworm allows for bureaucratic slow movement of files in offices, hamstringing better working conditions, births non enforceability of court decision, police extortion and extra-judicial killings³⁸, queues at passport offices, ghost workers syndrome, election irregularities, among others.³⁹

The Role of Government in Bringing the Challenges under the Rader

Generally, there is a great level of complexity in the Nigerian criminal justice and anti-corruption sectors. Internationally, Nigeria has ratified and signed the United Nations Convention against Corruption and is a signatory to both the African Union Convention on Preventing and Combating Corruption and the Economic Community of West African States Protocol on the fight against Corruption. In the light of the above, government should:

- Strengthen the fight against corruption by reinforcing preventive mechanisms and building the capacity of anti-corruption agencies
- Enhance civil society and public engagement in the fight against corruption and the criminal justice reform process.
- Strengthen institutions as weak institutions of government are another breeding ground for corruption. Corrupt practices are heightened within weak governmental institutions. Monies meant for specific humanitarian projects are diverted due to lack for appropriate documentation and follow up mechanism.

Summary

Corruption which is a cancerous phenomenon characterized with embezzlement, inducement, misuse, partiality and subjectivity have infiltrated into the fabric of the society. Having been pin point as an unresolved limitation to the development of societal institutions, the crux of this article which was to analyze the impacts of corruption and its associated activities on the sustenance and enhancement of human rights submits that corruption has significantly impedes economic growth, societal transformation and educational development due to non-

³⁸Busari,K. Blood On Uniforms (1): Inside Extra-Judicial killings by Police Officers enforcing COVID-19 Lockdown. *Premium Times*, 1 March 2021 <<https://www.premiumtimesng.com>> accessed 29 May 2022

³⁹ Dike, V.E. (2005), Corruption in Nigeria: A New Paradigm for Effective Control, Africa Economic Analysis, <http://www.africaeconomicanalysis.org/articles/gen/-corruptiondikehtm.html>, accessed 20 May, 2022; Oliyide, O. and Odeku, K. (2002), "Legal Perspective of Corruption in Nigeria", in Sokefun J.A. (ed.), *Issues in Corruption and the Law in Nigeria*, Ago - Iwoye: Faculty of Law, O.O.U., pp. 1-76

accountability, bribery, forgery of documents and contracts agreements, tax evasions, inducement etc. The article opines that a departure from the existing institutional structure and its challenges can contribute to closing the reformation gap with an accelerated fight against corruption and human rights violation.

Conclusion

The reality that corruption defaces and corrodes social mores, with lavatorial rottenness which sabotage the common will and enables the embezzlement of the nation's posterity cannot be over emphasized. Ironically, Aluko⁴⁰ observed that Corruption seems to have been adorned with permanency within the Nigerian polity. Having been wholly institutionalized into the realm of culture and the value-system; it now appears as a norm and no longer an irregularity characterized with inconsiderate behaviour which confers benefits on the actors contrary to permissible and ethical standards. This challenges organizational capacity to safeguard the rights of citizens. The articles critically analyzed the concept and concludes that the various social and economic challenges stunted economic growth, crumbling public institutions and infrastructures, birthing widespread poverty, lingering governmental uncertainties and violence as output of corruption.

Recommendation

- The institutions of government established to fight corruption must be strengthened, properly funded and must be up to task to be able to withstand the mandate at which they are created to serve.
- Government should erect an institutional mechanism to document procedurally government economic planning and strategies from commencement to finish to ensure accountability.
- It is instructive to learn from the policy measures of transparency international on how to curb corruption. According to Transparency International (2002) "Government need to integrate anti-corruption actions into all aspects of decision-making. They must prioritize better rules on lobbying and political financing, make public spending and contracting more transparent and make public bodies more accountable"
- The role of the judiciary in curbing corruption is very vital consequently, the article recommends judicial autonomy in reality and not on paper.

⁴⁰ Aluko, M. A. O. The Institutionalization of Corruption and Its Impact on Political Culture and Behavior in Nigeria.[2002]11 (3) *Nordic Journal of African Studies* 393-402.