

The
JONATHAN PRESIDENCY
THE SOPHOMORE YEAR



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6 The Anti-Corruption War During the Jonathan Presidency

E. Remi Aiyede

Introduction

One of Nigeria's efforts to recreate her image in the global community as the country returned to civilian rule in May 1999 was the establishment of independent institutions to deal with corruption. The setting up of the Independent Corrupt Practices and other Related Offences Commission (ICPC) on September 29, 2000 marked a major show of concern about the depth of corruption in the country. A few years later, the Economic and Financial Crimes Commission (EFCC) was set up. These bodies were modelled after the Independent Commission Against Corruption (ICAC) in Hong Kong.

The imperative of combating corruption has been underscored by the effects it has on societal growth and development. As noted by Johnston,¹ it undermines political institutions by weakening the legitimacy and accountability of governments. Corruption also reduces the effectiveness of aid-funded development projects and weakens public support for development assistance in donor countries. In short, corruption is inimical to sustainable development, poverty reduction and good governance. Overall, corruption has led to mass poverty, inequalities, crime, unemployment, brain drain and violent conflicts.² As President Olusegun Obasanjo put it succinctly:

Corruption is simply bad for the nation. To condone corruption is not only unpatriotic, but also irreligious for Christians and Muslims alike. No excuse is good enough for condoning the evil of corruption, be it on the basis of ethnicity, religion, sectional interest or on the offering of inducement in order to wield undue influence and pervert the truth. Corruption is an immoral and unpardonable act against society and punishable by God.³

The spread and depth of corruption in both public and private life, and the *need to fight it has remained a regular feature in the mass media*. Between May 29, 2011 when Dr. Goodluck Jonathan assumed office as President for his first tenure following the 2011 General Elections and May 29, 2013 when he

gave a Mid-Term Report, several public sector scandals rocked the country and were widely reported by the media. While the government has taken initiative in many of these cases, as we shall show presently, there has been no significant achievement in the prosecution of those involved in the scandals with grave implications for the status of the anti-corruption effort of the government. Indeed, it is arguable that no previous government had witnessed corruption scandals in the number and magnitude that have characterised the Jonathan Presidency.

The scandals and perpetual debates among the government, opposition parties and civil society organisations over the ineffectiveness of the anti-corruption bodies as well as the persistent service delivery and institutional failures that Nigerians continue to witness calls for a systematic engagement with the anti-corruption effort of the government. Today, any commentary on governance in Nigeria would be considered incomplete without an engagement with the performance of these anti-corruption bodies. The anti-corruption war remains one of the most formidable and essential activities of any government. To a large extent, perception of government performance in this regard portends a great deal for legitimacy. This paper provides a mid-term assessment of the anti-corruption effort of the Jonathan Presidency. It argues that these challenges have become more severe overtime and become aggravated under Presidents Yar'Adua and Jonathan. A major characteristic of the past two years of the Jonathan Administration is the perpetual report in the media of grand corruption scandals, specifically, the reports of great scandals in the National Assembly, fuel subsidy regime and pensions administration. Equally significant is President Jonathan's own contradictory declarations on his commitment to fighting corruption, given that the expressed disposition of President Jonathan towards the anti-corruption war goes a long way in determining the relative effectiveness of the anti-corruption bodies.

The Anti-Corruption War before President Jonathan

The ICPC has been established to receive complaints, investigate and prosecute offenders as well as to educate and enlighten the public about the detrimental effects of bribery, corruption and related offences. Of particular interest is its role of reviewing and modifying the activities of public bodies, where such practices may aid corruption. According to the EFCC Act 2004, 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, such as the Money Laundering Act 1995, the Money Laundering (Prohibition) Act 2004, and the Advance Fee Fraud and Other Fraud Related Offences Act 1995. Beyond the EFCC and the ICPC, there are other agencies that fight corruption in Nigeria. Some of them date back to the Second Republic. Such bodies include the Code of Conduct Bureau (CCB) and the Code of Conduct Tribunal (CCT). Several laws empower the anti-corruption agencies to prosecute cases investigated by them. The CCB and the CCT in Nigeria were created by the 1979 Constitution. The CCB is to receive complaints about non-compliance with or a breach of the Code of Conduct by public officers, process and forward such breaches to the CCT. The CCT is to hear cases of breach of the Code of Conduct by public officials.

The Anti-Corruption Efforts under President Obasanjo

An elaborate discussion of the performance of the anti-corruption bodies before the ascendance of Dr. Goodluck Jonathan as President and until 2011 has been done by several scholars including the **Human Rights Watch**.⁴ From these studies we note that four individuals were charged by the EFCC in the first year of its existence for corruption. The number rose to 49 in 2007. By June 2007, the EFCC had recovered over \$5 billion (or N725 billion) from financial criminals, both in form of cash and assets. The ICPC had recovered N3.6 billion by 2007. By 2007 the EFCC had arraigned 300 persons and the ICPC had arraigned 185 persons. By 2011, the ICPC had arraigned 520 persons in various corruption charges and secured 25 convictions, with only 10 of the defendants being prominent figures. The EFCC had arraigned some 1,200 persons for Advance Fee Fraud (419), recovered \$11 billion and secured over 400 convictions by March 2011. Over 10 prominent figures were charged for corruption. These included a former Inspector General of Police, several State Governors, Ministers, legislators and Managing Directors of some banks. Three of these prominent politicians were convicted. These were Tafa Balogun, Inspector General of Police, Lucky Igbinedion, former Governor of Edo State, Diepreye Alamiesieigh, former Governor of Bayelsa State, Olabode George, former Chairman of the Nigerian Ports Authority and Cecilia Ibru, former Managing Director and CEO of Oceanic Bank.

While the EFCC is generally regarded as the better performing anti-

corruption agency in relation to the ICPC, the CCB, the oldest of the agencies, has remained lethargic and ineffective in the anti-corruption war. The ICPC has been able to prosecute a few public officers and has several cases pending in court. It is collaborating with anti-corruption civil society organisations, including faith-based organisations, and has established anti-corruption clubs in schools, and anti-corruption and Transparency Monitoring Units in ministries and parastatals across the country. The major criticism levied against the EFCC under Nuhu Ribadu's leadership was that it was used by the Obasanjo Administration to deal with its political enemies and thus, that the Obasanjo anticorruption war was regarded as one-sided and selective. Many of the political big wigs prosecuted were those who were opposed to President Obasanjo on policy and political matters. The prosecutions by the EFCC were **selective**, even though it was able to cause much discomfort to public officials over corruption. Other challenges faced by the anti-corruption bodies, which we shall elaborate presently include political interference, lack of political will to fight corruption, sluggish and corrupt judiciary, inadequate finance, lack of integrity and incompetence on the part of the officials of the anti-corruption bodies.

From President Yar'Adua to President Jonathan: The Downward Spiral in Anti-Corruption War

The failure of the Yar'Adua Administration to elevate the feeble and selective anti-corruption drive of President Obasanjo was underscored by the controversial and malicious removal of Nuhu Ribadu from office. Nuhu Ribadu who was replaced by AIG Farida Waziri (Rtd.) on May 18, 2008 was first temporarily relieved of his duty and sent to a ten-month training course at the NIPSS, Kuru Ibrahim Lamorde was appointed to act in his stead before Farida Waziri was announced as his successor. It is generally assumed that the appointment of Mrs. Waziri in May 2008 effectively signalled a downturn in the effectiveness of the EFCC as Nigeria's frontline anti-corruption agency. This view was further buttressed by a series of intervention in corruption cases that took place when Michael Aondoaka was the Attorney General of the Federation and Minister of Justice. Under President Yar'Adua, the anti-corruption war suffered several setbacks, the most prominent being the increasingly assertive and overbearing role of Michael Aondoaka. It was during his tenure that constitutional powers of the Attorney-General to terminate or discontinue any case in the courts became widely debated. The relevant constitutional provision is Section 174 (1)(b) and

(c) of the 1999 Constitution (As Amended). Although Section (174 (3) requires the Attorney General of the Federation in exercising these powers to “have regard to the public interest, the interest of justice and the need to prevent abuse of legal process,” Micheal Aondoaka exercised these powers in furtherance of corruption than in furtherance of justice. This is evident in the way Michael Aondoaka managed the cases involving Governor James Ibori, former Governor of Delta State and the Haliburton scandal.

When the Haliburton scandal, involving Dan Etete, a former Petroleum Minister became public knowledge in France, Michael Aondoaka intervened by writing to clear Dan Etete of any wrong doing. In spite of this intervention, the prosecutors in Paris provided sufficient evidence to earn Dan Etete a conviction **in absentia**. He also travelled to the United States to obtain information on the issue after a United States Court completed trial on the bribe-for-gas Halliburton deal. On his return, he defended top level Nigerians who were named in the scandal, saying that a large chunk of the money had been found in an account in a Swiss Bank Account. When pressed further to name the culprits he insisted that Kellogg, Brown and Root, a subsidiary of Halliburton, merely moved the sum of \$150 million to the Swiss Account for distribution to the ‘beneficiaries,’ adding that the Account was frozen when the Swiss authorities became suspicious of the transfer. Michael Aondoaka who had earlier announced that he will be travelling to Switzerland to secure the repatriation of the frozen fund later told reporters that he was proposing a Probe Committee consisting of persons drawn from all important security agencies to investigate the matter.⁵ It is small wonder then that the Halliburton case has remained closed in Nigeria. Indeed, Michael Aondoaka played a critical role in defence of Governor Ibori who was eventually jailed in a London court on corruption and money laundering charges. Governor Ibori had been arrested, detained in a Kaduna prison and charged to court by the EFCC in late 2007. However, his lawyers successfully argued for a transfer of the case to Asaba, the Delta State capital. Justice Marcel Awokulehin of the Asaba High Court, discharged and acquitted him on all 170-count charge in December 2009. In 2010, the case was re-opened under President Jonathan but Governor Ibori evaded arrest several times in Nigeria and eventually relocated to Dubai from where he was arrested and repatriated to the UK to answer charges of corruption and money laundering. To be sure, Michael Aondoaka was in London to defend Governor Ibori. He not only frustrated efforts of the EFCC in prosecuting Governor Ibori; he also went as far as writing to the Southwark Crown Court clearing Governor Ibori and absolving him of any

criminal prosecution in Nigeria. The court eventually sentenced Governor Ibori to 13 years imprisonment. He joined his wife, Nkoyo, his sister, Ibori-Ibie and his mistress, Udoamaka Okoronkwo who were already serving their prison terms of 5 years each for similar offences or as conspirators in a large scale looting of the Delta State Treasury.⁶

From the time of President Yar'Adua, there has been a general belief that politicians and other high-profile individuals no longer dreaded the EFCC as they did under Nuhu Ribadu's leadership, provoking a debate about the relative effectiveness of the EFCC under Farida Waziri in comparison to their experience under Nuhu Ribadu's leadership.

A **Human Rights Watch**⁷ study made a comparison of the performance of the EFCC under the leadership of Farida Waziri and Nuhu Ribadu and arrived at some conclusions:

- (1) The EFCC, under both leaders, had been effective in prosecuting non-political financial crimes, especially in cases of Advance Fee Fraud (419).
- (2) By March 2011, some 1,200 people had been arraigned for 419 cases.
- (3) Under Farida Waziri the EFCC provided effective support to the CBN in sanitising the banking sector. In the process, Cecilia Ibru, the former Managing Director of Oceanic Bank was sentenced to six months imprisonment and she forfeited ₦190 billion in a plea bargain settlement in October 2010.
- (4) Assets and cash from proceeds of crime stood at over \$11 billion since 2003. Almost 60 per cent (\$6.5 billion) of this amount was recovered under Farida Waziri.
- (5) While there is a general perception that the EFCC had been more effective and dynamic under Nuhu Ribadu, Nuhu Ribadu's critics argue that Nuhu Ribadu's methods accounted for this perception. There has been more public show than concrete results. This is the case because the EFCC's efforts "have been characterised primarily by delay, frustration and failures under both Ribadu and Waziri."
- (6) The number of prosecutions targetting allegedly corrupt prominent public officials was higher under Farida Waziri than Nuhu Ribadu, although some of the investigations for Farida Waziri's initial prosecutions were done before she took office.

- (7) The EFCC's funding had tripled from \$23 million in 2007 to \$60 million in 2010 without a commensurate increase in the rate of new prosecutions.
- (8) In terms of convictions, Nuhu Ribadu was no more successful than Farida Waziri. Over 30 Nigerians have been charged in the first eight years of its existence.
- (9) The number of cases that the EFCC had successfully concluded is very small relative to the over 1,000 cases in court. This is disturbing given the hype that has gone with the arrest of high-profile individuals, even under Nuhu Ribadu. Cases have lingered in the courts for several years, giving the impression that once a suspect is able to secure bail, his or her case is as good as forgotten.
- (10) A major challenge to the anti-corruption war was "the country's political system [that] is built to reward corruption, not punish it."

President Jonathan's Mid-Term Balance Sheet

When Vice President Goodluck Jonathan assumed office as President in February 2010, following the death of President Yar'Adua, he announced the anti-corruption war and the conduct of a free and fair election in 2011 as **priority** areas of his government. By June 2010, he had taken steps that suggested that he was ready to match words with action. With regards to the anti-corruption war, the first culprit was the Chairman of the Peoples Democratic Party, Vincent Ogbulafor, who was taken to court by the EFCC to account for the sum of ₦104 million which was misappropriated while he was the Minister for Special Duties. In the same month, the EFCC announced that it had reopened the files on the Halliburton scandal in response to a directive by the President. The case against Governor Ibori was also pursued with vigour, and after several weeks of resisting arrest in his country home, Ogora in Delta State, Governor Ibori fled the country to Dubai from where he was eventually extradited to London to answer charges of money laundering and corruption. The EFCC also swung into action in the other corruption cases involving public officials across the country. The case files of former State Governors which had been dormant were re-activated. President Jonathan restored the rank and reversed the dismissal of Nuhu Ribadu from the Nigeria Police Force. Nuhu Ribadu had been demoted by two ranks, dismissed from the Police Force for failing to report at his new post and charged by the CCT on allegations that he failed to declare his assets

under President Yar'Adua. He had left the country for exile. He returned to the country in 2010 and later contested for the position of President in 2011. The case against him at the CCT was also withdrawn by the Attorney General of the Federation without any explanation.

President Jonathan kept his promise to make the vote of Nigerians during elections count. The 2011 elections were acclaimed by both local and international Observers as a marked improvement on Nigeria's record on elections, and he won the Presidential poll not without violent eruptions in many Northern States. In May 2011, he signed into law the Freedom of Information Bill which both President Obasanjo and Yar'Adua had refused to assent. He not only continued with the reform of the public service, he set up several Committees to investigate several procedures with the pension and payments process in the public sector. These investigative panels became the harbingers of a series of scandals that have defined the tone and challenge of the anti-corruption war, as several scandals were unravelled in these processes as shown in Table 6.1.

Table 6.1. A Sample of Corruption Scandal in Nigeria 2011-2013

The Ministry Works and Housing Scandal	In May 2011, former Minister of Works and Housing, Hassan Lawal was arrested by the EFCC on 24 counts of fraudulently awarding contracts, money laundering, and embezzlement of 75 billion Naira (\$480 million). In 2010, legislators on oversight had questioned the Ministry over construction of a runway for the Nnamdi Azikiwe Airport for a whopping sum of ₦64 billion, when a similar run way was constructed in Bucharest for ₦17.5 billion and in Thailand for ₦18 billion. The International Airport recently built by the Akwa Ibom State Government was built for ₦42 billion.
The Bankole Scandal	One time Speaker of the House of Representatives, Dimeji Bankole, and Deputy Speaker Usman Nafada were arrested in June 2011 by the EFCC for allegedly misappropriating one billion Naira (\$6.4 million) and 40 billion Naira (\$256 million) respectively.

The Governors' Scandal	<p>In October 2011, four States Governors were arrested by the EFCC for allegedly misappropriating 58 billion Naira (\$372 million), 25 billion Naira (\$160 million), 18 billion Naira (\$115 million), and 12.8 billion Naira (\$82 million) respectively: Otunba Gbenga Daniel (Ogun); Chief Adebayo Alao-Akala (Oyo); Alhaj Aliyu Akwe Doma (Nasarawa); and Muhammed Danjuma Goje (Gombe).</p>
The Fuel Subsidy Scandal	<p>On January 1, 2012, Nigerians rose up in protest of the New Year day announcement of subsidy withdrawal by the Federal Government that saw the price of fuel rise from ₦65 to ₦142 per litre. The protesters demanded the reversal of this policy and called for an investigation of the subsidy regime in order to check corruption in the oil and gas industry and in government in general. As part of the measures to resolve the crises in the subsidy management, the House of Representatives set up a Committee to review and investigate the subsidy process. On April 18, 2012, the Ad hoc Committee on the Fuel Subsidy management led by Hon. Farouk Lawan, released a Report showing massive fraud, corruption, and inefficiencies in the operation of the program. The Report alleged that there was misappropriation of nearly half the subsidy funds, with poor or non-existent oversight by government agencies. The Report estimated that government money lost to "endemic corruption and entrenched inefficiency" amounted to 1.067 trillion Naira (\$6.8 billion). The Committee recommended a reform of the oversight and enforcement mechanisms and endorsed further investigation and prosecution of culpable officials (House of Representative Resolution No. (HR.1/2012)). In July 2012, the government released a list of those who had benefitted illegally from the subsidy program, which included relatives and colleagues of key government officials. In late July, the EFCC began arraigning suspects, first with a group of 20 indictments, including six oil companies and 11 individuals. There were 50 cases being prosecuted by the EFCC in relation to the subsidy scam. The majority of these cases involved companies and individuals who had fraudulently received subsidy revenue. In June 2012 a video surfaced, allegedly showing Hon. Farouk Lawan accepting a 94.2 million Naira (\$605,000) bribe from Femi Otedola as part of a "sting" operation. The allegations initially overshadowed the Lawan Committee's findings, but the cases are still being prosecuted.</p>

The Sylva Scandal	On February 24, 2012, the EFCC instituted criminal charges against former Governor Timipre Sylva of Bayelsa State for laundering close to five billion Naira (\$32 million) of funds belonging to Bayelsa State.
The Ibori Embarrassment	On February 27, 2013, Governor James Ibori of Delta State pleaded guilty in the Southwark Crown Court in London to charges of money laundering and other financial crimes totalling 12.4 billion Naira (\$79 million) during his eight years in office. On April 17, 2013, the Court sentenced Governor Ibori to 13 years in prison. Judge Marcel Awkulehin of the Asaba High Court had dismissed the case against Governor Ibori on the grounds that the prosecution had failed to establish a prima facie case against him in 2009. He was discharged and acquitted of a 170-count charge of corruption and money laundering levelled against him by the EFCC.
Oteh vs House of Representatives Bribery Scandal	On March 20, 2013, Aruna Oteh, the Director General of the Securities and Exchange Commission accused Honourable Herman Hembe and Chris Ifeanyi Azubogu, Chairman and Deputy Chairman respectively of the House of Representatives Committee on Capital Market and other Institutions of demanding a bribe of 39 million Naira for the public hearing and another five million Naira. She made the allegation during a public hearing in the probe into the collapse of the capital market. The EFCC later arrested both men and charged them for collecting a sum for a First Class ticket to attend a Conference in the Dominican Republic without attending the Conference or refunding the money.
The Pension Scandal	On March 29, 2013, the EFCC arraigned six suspects including Atiku Abubakar Kigo, Director of the Police Pension Office and later Permanent Secretary in the Ministry of the Niger Delta for allegedly defrauding the Police Pension Fund of 32.8 billion Naira (\$210 million). Abdurraheed Maina of the Pension Reform Task Team (PRTT) announced that as at October 23, 2012, the PRTT had recovered over ₦220 billion.

Sources: US Department of State Country Report 2012, Various News Reports.⁸

Undoubtedly, the task of the EFCC as shown in Table 6.1 was enormous. The EFCC began investigation of new cases of corruption involving key players in the Yar'Adua Administration, beginning with the former Minister for Works

and Housing. On January 1, 2012, the Federal Government increased the price of fuel from ₦65 to ₦142 as it implemented its deregulation policy. Nigeria erupted with nationwide demonstrations against the increment. Demonstrators questioned the basis of the deregulation. The government claimed that the fuel subsidy regime was riddled with corruption and under the stranglehold of a cabal. The House of Representatives stepped in to investigate the subsidy regime, unravelling a great scandal involving government officials conniving with private sector operatives to steal public revenue. The government made several promises that it would ensure that those involved in the subsidy regime were punished. It set up several Panels and Task Forces to deal with the challenges: A PIB Special Task Force was to produce a clean copy of the Petroleum Industry Bill (PIB) for presentation to the National Assembly in order to fast-track the passage of the Bill which will provide a basis for reform; Special Task Force on Governance and Control was to review all management controls on the NNPC and other parastatals, design a new governance code to ensure transparency and good governance and design a blue print to separate policy from operations in the NNPC and other parastatals, set key performance indices, eliminate rent-seeking opportunity and arbitrage and design a road map for transition to the PIB. The government has failed to take concrete steps to show that it was committed to dealing with the problem. No Minister has resigned nor has any public official been sacked in relation to the scandals. As time wore on, citizens became impatient with the government's handling of the scams. Criticism of the government's anti-corruption effort intensified, even as Reports of some Committees became mirrored in controversy. Things came to a head in the case of the stolen pension fund of over the ₦32 billion, when on January 28, 2013, John Yakubu Yusuf was sentenced to two years imprisonment or a fine of ₦750,000. He was also to forfeit 32 houses in the FCT and Gombe State, and cash of ₦325 million. Nigerians were livid with the decision of Justice Abubakar Talba of the Abuja High Court which was considered too light given the sum involved and the consequences on pensioners who suffered from that graft. Protesters stormed the Supreme Court, the National Assembly and Ministry of Justice on January 30, 2013 demanding that action be taken against Justice Talba. The protesters made up of civil rights groups, students associations, the anti-corruption network and unemployed youths asked for a retrial of the case and the sanctioning of Justice Abubakar Talba.⁹ In April 2013, the National Judicial Council, NJC, found Justice Abubakar Talba guilty of handing an "unreasonable" sentence to a self-confessed pension thief. He was suspended for one year and was to forfeit

his remuneration for the period of suspension.¹⁰ In the Yusuf Case, the EFCC was criticised for the choice of legal provision on which to prosecute the case. The EFCC had charged John Yusuf on the Penal Code Act, Cap 532, Laws of the FCT. The punishment prescribed by this law is very light, in relation to the provision of the Criminal Procedure Act, because it gives the judge the discretion that enabled Justice Talba to give such a light sentence.¹¹

In general, several problems have been associated with the anti-corruption efforts of the Jonathan Presidency. First, political interference remains a major set-back to the anti-corruption war. This is particularly so in relations to the powers of the President over the EFCC. Quoting Festus Keyamo, **Human Right Watch** states: "whoever is the EFCC Chairman, (he) can't go beyond the wish of the President. If he does, he would be removed the next day."¹² This interference, as we have shown, may not come directly from the President. A prime instrument of interference is the office of the Attorney-General of the Federation and Minister for Justice, an appointee of the President. The enormous powers of this office had been used under President Yar'Adua and increasingly under President Jonathan to affect the work of the EFCC and other anti-corruption bodies. Bello Adoke, whom President Jonathan appointed to replace Michael Aondoaka, had not been less meddlesome in the operations of the EFCC. Indeed, Bello Adoke had insisted that the anti-graft agency is subject to his direct supervision. On September 21, 2010, the FG published Gazette No. 61 Volume 97, ostensibly, to make the EFCC more efficient. But rather than aid the operations of the EFCC, the Gazette whittled down its powers, because it requires the EFCC to seek and obtain the approval of the AGF before prosecuting any person suspected to have corruptly enriched his or herself. Farida Waziri not only complained severally that some men and women in high places have become obstacles to the effective functioning of the EFCC as an anti-corruption organisation but also lamented that associates and prominent persons in the society interfere with investigations and obstruct the efforts of the EFCC to prosecute individuals involved in economic and financial crimes, thus reflecting the increasing frustration of the commission in its efforts to discharge its mandate under President Jonathan. Indeed, Farida Waziri had a long frosty relationship with Bello Adoke who at some point called for the merger of the EFCC with the ICPC. AGFs Aondoaka and Adoke have acted as breaks rather than accelerators on the anti-graft drive. In fact, as the work of the anti-corruption bodies had progressed, so offenders have found new ways to beat the organisation and avoid their clutches. In their study of the anti-corruption war between 1999

and 2008, Adebawo and Obadare¹³ argued that the gravest threat to the anti-corruption campaigns was a combination of intra-elite rancour and political intrigue and that corruption literally fights back. Farida Waziri was removed in November 2011 before the end of her tenure, as President Jonathan increasingly came under criticism that the anti-corruption war was failing.

Second, the judiciary has been a major source of delay and has proven to be quite inefficient in disposing of cases being prosecuted by the EFCC. Two factors are responsible for this situation. First, is the penchant by defence lawyers to prolong the cases. The lawyers bring applications to frustrate and stall the trial process. The second is that the courts are overloaded with cases, even with their poor facilities. As a result, Farida Waziri, like her predecessors had consistently pressed on the government to establish special courts to deal exclusively with corruption cases from the long list of cases in Nigeria's overloaded courts.

Third, in addition to the cases of inefficiency and overload in the courts, there are also cases of complicity of judges in the failure of some corruption cases. An important case in point is the police pension saga in which Justice Abubakar Talba of the Abuja High Court gave what was regarded as unreasonably light sentence on January 28, 2013. He was subsequently suspended for one year without pay by the National Judicial Council. Justice Archibong was also retired for his role in Erastus Akingbola's case. The judges were punished for embarrassing the judiciary with their unjustifiable decisions taken on the altars of the weaknesses of the Penal Laws of Nigeria. There are allegations that these behaviours were motivated by corruption. The Chief Justice of Nigeria, Aloma-Mukhar has admitted the challenges posed by laws described as "archaic, obsolete, alien and {are} therefore not consistent with current realities." She called on the legislature to take steps to ensure that the laws are reviewed to make them relevant to current socio-economic and political conditions.¹⁴ The same claim of complicity of some members of the judiciary in the corruption war has also been levelled against some members of the anti-corruption agencies.

Fourth, the integrity and competence of some EFCC's operatives have been questioned. Olisa Agbakoba, former President of the Nigeria Bar Association in an interview remarked that "I don't rate the EFCC highly in their prosecutorial methods."¹⁵ Some EFCC officials have been charged for corruption by the organisation.¹⁶ In a statement in March 2013, the current Chairman of the Commission, Ibrahim Lamorde lamented that

The patriotism and even idealism of 2003 (when the EFCC was established) had

succumbed to the unrelenting onslaught of corruption; an undue dose of atavistic acquisitiveness and other personal interests had been injected into the war that it was inevitable for the anti-corruption effort to flounder so noticeably.¹⁷

There were a number of bungled prosecution cases by the EFCC, particularly the case involving Erastus Akingbola, the Managing Director of the Inter-Continental Bank. In dismissing the 26 charges of money laundering against Dr. Akingbola, Justice Charles Archibong condemned the persecutions for negligence. A similar charge of lack of “diligent prosecution” led to the dismissal of charges against three persons over the long-running \$180 million Halliburton bribe scandal. The case against Governor Gbenga Daniel was thrown out by the presiding judge because the charges were shoddily framed. Another court threw out corruption charges against Dimeji Bankole, a former Speaker of the House of Representatives, and his deputy, Usman Nafada for lack of diligent prosecution. The same reason was advanced for dismissing the cases involving Adolphus Wabara, a former Senate President, and Professor Fabian Osuji, a former Education Minister, and some legislators including Ndudi Elumelu. Many former and serving public officers such as Governors Orji Kalu, Chimaroke Nnamani, Abubakar Audu, Ahmed Yerima, Abdulkadir Kure, Attahiru Bafarawa have had long-drawn cases in court that had been described as being tardily prosecuted.¹⁸ Some of these high-profile cases have been prosecuted by the EFCC using a number of highly paid Senior Advocates of Nigeria (SANs) that ended badly. There are also court-decisions that the EFCC was expected to have pursued at a higher level which it never did. These include the case of Governor Peter Odili (Rivers State) who secured a perpetual injunction that *permanently* restrained the EFCC from “arresting, detaining and arraigning Odili on the basis of his tenure as governor” during the leadership of Nuhu Ribadu. There are several other cases where the EFCC publicly expressed dissatisfaction over the decision of the court but never appealed the decision at a higher court.

Fifth, the use of plea-bargaining involving prominent figures, especially in the cases of Governor Lucky Igbinedion and Cecilia Ibru of Oceanic Bank has raised much questions. Governor Igbinedion was convicted on a one-count charge of corruption by the Federal High Court, Enugu in December 2008. But he did not go to jail, as he was merely fined N3.6m, which he paid on the spot. The light sentence was a part of the plea-bargain arrangement in which Governor Igbinedion pleaded guilty during the trial. In the case of Cecilia Ibru, the period of her incarceration was spent in a hospital bed. The use of plea bargaining and

the focus on the recovery of stolen money without effectively punishing the culprits is considered inadequate to deter corruption. Others have argued that it is a more realistic approach in a context in which offenders exploit the inherent problems in the legal system to truncate trials. In the words of Jide Ojo: "it is better to recover our commonwealth from those who have pilfered it through plea bargain than to continue to waste scarce resources of the state on interminable prosecution of corrupt officials."¹⁹ Some legal luminaries have questioned the legality and the practice of plea bargaining although the practice is yet to be challenged in court.

President Goodluck Jonathan has consistently declared his commitment to fighting corruption. However, his actions, associations and utterances often times give him away. His utterances at public events often suggest that he neither believes that corruption is deep seated in Nigeria nor did he believe that corruption constitutes a major challenge for his government and the country. President Jonathan like many high ranking government officials in Nigeria had been publicly associated with persons convicted of corruption. While President Jonathan was not listed, unlike President Obasanjo, among those who attended the Welcome and Thanksgiving Party to receive Bode George on his return from prison after serving a jail term for corruption, some members of his cabinet, including the then Minister of Defence, Ademola Adetokunbo, were at the event. In spite of the public shock and outrage over the event, President Jonathan did not question the behaviour of his ministers and associates.²⁰ When President Jonathan was to nominate a new Chairman for the ICPC in February 2011, he nominated a 72-year old retired Supreme Court Justice, Pius Olayiwola Aderemi. The candidate was promptly rejected by the Senate on the ground that the candidate may not have "the capacity and ability to meet the demands of the job." President Jonathan then nominated Francis Elechi as the second candidate in May 2011. But opposition parties opposed his nomination on the ground that he was a card carrying member of the Peoples Democratic Party (PDP) and an associate of Rivers State Governor, Rotimi Amaechi. He then nominated Ekpo Nta who was eventually confirmed by the Senate.²¹

President Goodluck Jonathan had argued that corruption was not the cause of Nigeria's problems. He was reacting to a Statement made by one of the officiating priests during the funeral ceremony of General Owoye Azazi (Rtd.), to the effect that corruption was the cause of all of Nigeria's problems, maintaining that the problem of corruption was been over flogged: "Most of the things we think are caused by corruption are not. This is because Nigeria has several

institutions that fight corruption.” For him, the problem of Nigeria is that of attitude, especially the people’s attitude. He buttressed this view with the claim by a Federal Road Safety (FRSC) official who told him that the FRSC discovered that majority of the road accidents are recorded in good roads, suggesting that good roads may not be good for Nigerians, at least until they change their attitude.²²

President Jonathan listed Governor Diepreye Alamieseigha of Bayelsa State and former boss, and Shetima Bulama, former Managing Director of the Bank of the North, among those granted State pardon in consultation with the National Council of State. Both men were convicted of misappropriating public funds. Governor Alamieseigha was impeached, tried and convicted in 2007 after jumping bail and sneaking back into Nigeria dressed like a woman! He was accused of embezzling about \$55million of public funds with which he acquired real estate all over the world. He ran out of luck when the London Metropolitan Police found more than £1million in cash at his home. The decision of President Jonathan was interpreted as a major set-back in the fight against corruption. The Nigeria Labour Congress (NLC) in a Press Release wondered “what message the National Council of State is sending to Nigerians if at the height of unprecedented corruption in the country those prosecuted and jailed for stealing public funds are granted State pardon.” The NLC added: “While we appreciate that the National Council of State does have the constitutional responsibility to pardon citizens who have obviously been convicted or punished in the past for offences, it is totally unacceptable that those who committed economic crimes in such magnitude that affect public interest be granted State pardon.”²³ The pardon also attracted international condemnation by donors to the EFCC, such as the United States and Transparency International. While the United States Embassy noted that it was “deeply disappointed” over the “recent pardon of corrupt officials,” TI asked President Jonathan to rescind the State pardon granted to Governor Alamieseigha. According to TI, the decision undermined the anti-corruption efforts in Nigeria and encouraged impunity. Opposition parties, civil society organisations and prominent Nigerians, including former Chairman of the EFCC, Nuhu Ribadu and civil rights activist, Femi Falana argued that the State pardon granted Governor Alamieseigha in particular was not only a beautification of political criminals in the country, but also a major setback to the anti-graft war in a country that was already shackled by corruption and high profile looting.²⁴

In April 2013, when the Federal Government reconstituted the Governing Councils of Federal Universities, Salisu Buhari, the impeached Speaker of the House of Representatives was appointed a member of the Governing Council of the University of Nigeria. Salisu Buhari was the first elected Speaker of the House when Nigeria returned to civil rule in May 1999. He was tried and convicted of certificate forgery and was removed as Speaker for forgery although he was later granted State pardon by President Olusegun Obasanjo. In April 2013, the United States Department of State's Bureau of Democracy, Human Rights and Labour released its Country Report stating that the government did not implement the criminal penalties for corruption effectively, and declared that "officials frequently engage in corrupt practices with impunity. Massive, widespread, and pervasive corruption affected all levels of government and the security forces."²⁵ The Report pointed out that corruption was hampering the ability of the Nigerian Government to effectively police its own borders and deal with new security threats, such as terrorism, influx of small arms and piracy on its coastal waters. President Jonathan noted that although there were cases of corruption in the country, the menace was being "over-amplified," emphasising that the conduct of government business had experienced more transparency and fairness than ever. He pointed to the fertiliser and power sectors, especially the bidding processes, maintaining that the government is "bringing down the issues of corruption gradually." He condemned the Department of State's Report for overlooking these achievements.²⁶ However, opposition party members and several civil society organisations upheld the State Department's Report. For instance, the Publicity Secretary of the CPC declared that the government of the Peoples Peoples Democratic Party (PDP) is "a cesspool of corruption," while CSOs and other opposition parties advocated the death penalty for cases of corruption given the depth in which the corruption had sunk in the country.²⁷

President Jonathan's public statements and actions portray him as someone who is not committed to fighting corruption in spite of his occasional defence of his government's performance in the anti-corruption war. Apart from the many incidents of corruption scandals that occurred during his tenure in office, all of which have not been prosecuted in any meaningful way, his commitment to transparency and accountability in governance was seriously questioned when in a nation-wide television (media) chat he declared that "The issue of asset declaration is a matter of principle. I don't give a damn about that. The law is clear about it and so, making it public is no issue and I will not play into the hands of the people. I have nothing to hide. . . I declared (assets publicly) under

the late President Umaru Musa Yar'Adua because he did it, but it is not proper. I could be investigated when I leave office." President Jonathan **failed, refused and neglected** to declare his assets publicly, arguing that the law did not require him to do so. The Code of Conduct Bureau has also refused to make public President Jonathan's declaration of assets in spite of pressures from civil society organisations.²⁸

During his May Day Speech, President Jonathan joined issues with labour leaders over corruption. Abdulwahed Omar and Peter Esele had called on President Goodluck Jonathan to step up the anti-corruption effort. The labour leaders challenged President Jonathan to demonstrate his commitment to the fight against corruption by his style, actions and body language. They described the State pardon granted to the Bayelsa State Governor convicted of corruptly enriching himself as a major dent on the anti-corruption effort, and urged him to conclude the prosecution of those who have embezzled public funds in the past decade. They condemned the light sentence awarded against John Yusuf, a self-confessed pension thief and called on the EFCC to appeal the sentence. They also called for the abrogation of the law under which John Yusuf was charged and a replacement with one that will provide punishment commensurate to the crime. President Jonathan in his response argued that the government is doing enough and went on to accuse members of the labour unions as major culprits of anti-corruption war. He challenged the unions to tell their members to stop the stealing. He declared: "Greater attention to peer review action will be much appreciated."²⁹ Thus, in many of his utterances, President Jonathan failed to recognise the gravity of the corruption epidemic and his responsibility to fight it. These failures have served to inform poor public perception of his government and the view that he was tolerant of corruption.

Transparency International Global Corruption Barometer stated that:³⁰

- (1) 72 percent of respondents indicated that corruption had increased a lot the last two years;
- (2) 78 percent of the respondents agreed that corruption was a serious problem in Nigeria;
- (3) 72 percent believed that government was run largely or entirely by a few big entities promoting their interests;
- (4) 75 percent believed that government action against corruption were either ineffective or very ineffective;
- (5) 92 percent believed that civil servants were corrupt or extremely

corrupt, and 69 percent believed the police is corrupt or extremely corrupt;

- (6) 60 percent, 94 percent and 13 percent believed that the judiciary, political parties and legislators are corrupt or extremely corrupt respectively.

These meant that political parties and civil servants were considered the most corrupt entities in Nigeria. In its first *Illicit Financial Flows Report of the Global Financial Integrity* for 2000-2009, Nigeria led Africa in illicit financial outflow. Nigeria took the 7th position among the top 20 countries with the Highest Measured Cumulative Illicit Financial Outflows between 2000 and 2009, accounting for \$182 billion.³¹ Although the Report did not cover the period of the Jonathan Presidency, it showed the magnitude of the challenge. When President Jonathan addressed the nation on May 29, 2013 to mark the middle of his four-year term, he gave his government a pass mark on the anti-corruption war. His Mid-Term Report defined his anti-corruption strategy as focused on “building strong institutions that have the capacity to overcome corrupt influences and not just to sermonise about corruption,” adding that this approach seeks to address “the social and economic conditions that reinforce the incentive for public officers and private actors to abuse public trust” and strengthening “the rule of law as a framework to fight corruption since corruption is a feature of weak rule of law and weak institutions.”

There are several issues associated with his claim and approach. First, is that President Jonathan has not elaborated the specific steps he has taken to strengthen the anti-corruption bodies and the institutions of the rule of law. Rather, President Jonathan argues that by observing the law with respect to the principles of separation of power he has enabled the judiciary to function without let or hindrance. He took credit for steps taken by the National Judicial Council (NJC) headed by the Chief Justice of the Nigeria, Mariam Aloma-Mukhar, who was sworn in September 27, 2011 to punish erring judges. There is no doubt that effectively punishing those that are found to be involved in corruption is essential to deterrence. The point is that none of the cases involving high ranking officials in the scandals listed above have been concluded. Therefore, none of those involved in such monumental scandal has been punished. Thus, that the EFCC recovered \$6,670.3 million and got 67 convictions by 2011 is scarcely impressive.³² President Jonathan also reported that his government detected and deleted over 73,000 ghost/fake pensioners from the Office of the Head of Service of the

Federation and Police Pensions, saving over ₦225 billion; the implementation of the biometric data capture of 170,000 pensioners halted the monthly theft of ₦500 million from the police pension, accounting for about 50 percent of the ₦1 billion disbursed monthly in the past; discovered 50 000 unpaid pensioners and immediately paid their entitlements. He also noted the discovery of a fraud of ₦2.7 billion in the Pensions Fund and how the effort of the government to deal with it yielded the seizure of 200 properties including hotels and cash worth billions of naira. The government, he maintained, has instituted a more efficient tamper-proof pension's fund management system. But he failed to address the fact that in nearly all of these discoveries no public servants involved in or associated with the malfeasance have been punished. Thus, in terms of actual prosecution of corruption cases in the public service, President Jonathan was mute.

President Jonathan referred to the initiatives of the CJN to the reform of the criminal justice system in order to plug the loopholes often exploited by counsels to delay trial of persons accused of corruption. The instrument for this is the new set of proposals sent to the National Assembly by the AGF and Minister of Justice in a Bill that will remove incidence of frivolous injunctions, interlocutory motions, adjournments and other abuse of court processes by counsel usually employed by suspects in corruption cases. He also reported that the Petroleum Industry Bill (PIB) will help address the problems of corruption in the petroleum industry. But given that these proposals are still with the National Assembly, the specific effort in this direction is yet to be achieved and therefore yet to bear fruit.

President Jonathan made to reference to the signing of the Freedom of Information Act (FOI) into law in May 2011 as representing a water-shed in the anti-corruption crusade in Nigeria. The law allows any person to request information from a government office, and requires the office to grant access to the information, explain why access was denied within seven days of receiving the request, or transfer the request to the appropriate office within three days. The FOI Act makes it the responsibility of all public offices to keep records. It also provides immunity for public officers against any form of civil or criminal proceeding for "disclosure in good faith of any information" pursuant to the FOI Act. The Act provides a 30-day window within which anyone denied access by any public institution can bring the matter to court for a judicial review. The Act provides a fine of ₦500,000 (\$3,200) for any institution or public officer who wrongfully denies access to information or records. Destruction of records

is a felony punishable by a minimum penalty of one year's imprisonment under the law. President Jonathan argued that the Freedom of Information regime empowers citizens to scrutinise officials and institutions. He maintained that CSOs have petitioned the Ministry of Justice, the Central Bank of Nigeria, the Nigerian National Petroleum Corporation (NNPC) and the Presidency for information on public expenditure to help them fight corruption. President Jonathan completely ignored the fact that these agencies of government have failed to respond to the requests of these civil society organisations. The **United States Department of State's 2012 Country Report** noted that civil society groups continued to introduce an increasing number of cases at the federal and State levels to test the FOI Act and remarked that "Despite the number of cases introduced, there was only one reported successful prosecution during the year". The Report also noted that on March 1, 2012, in response to one of such FOI Act cases, a Federal High Court ordered the EFCC to disclose its sources of information regarding allegations it had made against the former President of the Committee for the Defence of Human Rights, Olasupo Ojo. The EFCC failed to comply with the Order. Also a High Court ordered the National Assembly to release full details of their salaries and emoluments paid to members of the Assembly on the behest of the Legal Assistance and Aid Project. But the National Assembly refused and took the matter to the Federal Appeal of Court where the case is still pending.³³

Conclusion

President Jonathan has not shown any serious commitment to fighting corruption and his actions have signalled to law enforcement agencies that he is not committed to end the impunity of corrupt officials. His action in granting State pardon to corrupt officials and his constant shifting of responsibility for the ineffectiveness of the anti-corruption agencies coupled with his claim that the levels and consequences of corruption in Nigeria are exaggerated show clearly that he is not committed to fighting corruption. Indeed, given the disposition of the Administration, the fight against corruption is not likely to flourish in the remaining part of his tenure. Nigerians would have to wait for a more morally exemplary leader to clean the Augean stables of corruption. Such a future leader would have to take note of two important factors that account for the slow progress in the work of the EFCC and other anti-corruption agencies. The first is the interference in the work of the agencies by the Ministry

of Justice, especially the office of the AGF. That office has the power to discontinue a case and stop the EFCC from proceeding further on it. This institutional problem should be addressed by the National Assembly as it progresses with the next round of constitutional review. Similarly, the power of the President over the EFCC and other anti-graft agencies must be reviewed to guarantee their independence.

One characteristic of the Jonathan Administration is the high number of corruption scandals that have been blown open. From the fuel scandal to the pension funds scandal, the amount of money involved runs into billions (oftentimes hundreds of billions) of Naira in each case. None of these scandals has been properly investigated and prosecuted by the government. Indeed, none of them has been concluded and no conviction has been recorded. President Jonathan in his Mid-Term Address seems to be satisfied with the slow progress of the process. In his view “the trials are going on well.” In this and several other issues in the anti-corruption war, his opinion varies widely from the surveys on the views of Nigerians. Farida Waziri’s complaint that she was being frustrated in her task by individuals in “very high quarters” reinforces widespread distrust in government’s sincerity.

There is an impression that the widespread character of corruption and huge number of corruption cases overwhelms the capacity of the anti-corruption bodies. These coupled with the capacity of offenders to undermine the judicial process show how daunting the anti-corruption war has become. Additionally, the way and manner previous leaders of the anti-corruption agencies have been removed does not inspire confidence, whether in the leadership of the agencies or in the public. Both Nuhu Ribadu and Farida Waziri were removed from office in an untidy manner before they completed their tenure. No case has been successfully brought up against either of them. Indeed, it will task a focused and determined government to make any meaningful impact.

The anticorruption war that began to wane under President Umaru Yar’Adua has practically lost steam under President Goodluck Ebele Jonathan. There is no sign that he has **any** intention to revamp the process. In the near future, Nigeria is likely to remain one of the most corrupt nations on earth. If, as *Human Rights Watch* has noted that, “the public challenge to impunity enjoyed by abusive members of Nigeria’s political elite has been the most important accomplishment of the fight against corruption,”³⁴ then President Jonathan’s iterations on corruption have served to reassure these members of the political class that the challenge has been effectively checkmated and will remain so until the end of his tenure.

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