
*An analysis of
corruption under
criminal Law*

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Abstract

Due to the consistence increase in the level of corruption, an analysis of corruption under criminal law is reviewed considering the 1999 constitution of Nigeria. Corruption is one of the offences punishable under criminal law. However, the 1999 constitution of Nigeria (as amended) explained what should be done by criminal justice agents when crime are committed, but does not state categorically what constitute an offence. This work focused on what constitute a corruption, the underlining causes and consequences of corruption, the place of corruption in criminal law. The author prescribed that the 1999 Constitution of Nigeria (as amended) should be revisited to state categorically what constitution an offence of Corruption. Also, there is need to reform the Nigeria criminal justice legal System to enforce and encourage independent of the Judiciary.

Keywords: Judiciary, Independence, Justice, Legal System, Corruption.

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Introduction

Corruption is a criminal offence punishable under criminal law. One is said to be guilty of corruption when he/she obtained unmerited favour by influencing the existing rules and status. Criminal law is a section of Law that interprets crimes (Like Corruption), set-up a regulatory framework on what should be done by criminal justice system. According to Wikipedia, criminal law differs from civil law, where emphasis is more on dispute resolution and victim compensation, rather than on punishment or rehabilitation¹. However, criminal law is a part of constitution. Ikpang A. J (2016) Said that constitution provide the background for the study of constitutional law which falls within the broad regime of public laws. An elaboration on public law show that criminal law is one of its components². The rate of increase of corruption globally is alarming and many countries are combating the menace by setting up anti-corruption policies and institute. Nigeria as a country have enacted a number of substantive law through the national Assembly to help combat corruption. This laws includes but not limited to:

1. The constitution of the federal Republic of Nigeria 1999 (as amended)
2. Code of conduct Bureau and Tribunal Act
3. Economic and financial crimes commission (establishment) Act
4. Dishonoured cheque (offences) Act
5. Corrupt practices and other related offence Act
6. Money laundering prohibition Act
7. Finance (Control and Management) Act
8. Public procurement Act
9. Advanced fee fraud and other fraud-related offence Act
10. Fiscal responsibility Act
11. Nigeria extractive industries transparency initiative Act
12. Failed bank (recovery of debt) and financial , mal-practices in Bank Act
13. Nigeria financial intelligence unit Act.

Moreover, the intention of these enacted laws is to eradicate corruption at all levels. The question is with all these laws, does corruption still exist among the state? What actually could be the causes of the increase in corruption? Could it be as a result of lapses or inadequacy of legislation? Hence, this work seek to analysis corruption under

criminal law in the 1999 constitution of Nigeria.

The Concept Of Corruption

In law, no definition is generally acceptable. There are various definitions for a single term and non among this definitions can be seen as wrong of out of place; hence, this is also applicable to the term corruption. The legal dictionary 2nd Edition State that corruption is an act done with an intent to give some advantage inconsistent with official duty and the rights of others³.Corruption has hindered the achievement of better, efficient and affective economic development and a good democracy setting. According to Iman Ibrahim, Abdulraheem M.A and Olokooba S.M (2010) corruption is a common phenomenon seen vertically in every facet of life, like politics, industries, banks and government institution⁴ etc. The concept of offence of corruption however is a difficult one and it is interpreted diversely. It is often unclear when the term offence of corruption is used. Ikpang A.J (2016) said that the 1999 constitution of Nigeria (as amended) does not contain or create any offence simplifier, but it contains elaborate regulatory framework on what should be done by agents of criminal justice system when issues of criminality are involved⁵. Every average Nigerian for instance,

understand corruption as simple given of bribe to say a police man for easy road-way pass to embezzlement of money by probably the politicians. The ICPC Act (2000) States that corruption includes bribery, fraud and other related offences⁶.

The Underlining Causes And Consequences of Corruption

The World Bank and the international monetary fund, among other have supported many anti-corruption programmes and governance initiative among member states; yet the rate of increase in corruption is still overwhelming. However, the causes and consequences of this menace are well researched, still not completely. It is obvious that anti-corruption campaigns cannot perfectly succeed without identifying key areas/factors which can cause the corruption, as thus: (1) The literacy level of the country (2) People's moral, cultural and social ideology (3) The degree of economic and political environment (4) The level of media freedom etc. Also an analysis on the educative consequences includes (1) It endangers the legitimacy of a country (2) causes insecurity in the economy (3) it lead to moral, social and cultural degradation.

The degree of economic and political environment

When the economic activities of a country is controlled and limited, the power and authority of the people in official positions is bound to increase given room to corruption. This is so because people shall be willing to bribe their way out. Corruption is certain when officials are under regulation to make decision at their discretion.

The People's Moral, Cultural And Social Ideology

The idea of what constitute corruption all depend on the people's moral, cultural and social way of life. For example, in certain geographical setting or background, some people accept "thank you" as an appreciation for a service while others sees it as nothing other than a tangible present. So what people called evil, depend on how they see it morally, culturally and otherwise. The literacy level of the country: According to OECD Observer 2019 among 134 countries that attended the 9th international anti-corruption conference organized by transparency international in Durban, October 2019, over 100 were developing countries. Despite the real efforts these developing countries are making, there has been little concrete progress to late 7. The observation is so because, the literacy level of the under developed world is wide spreading; people

choosing to live by it as an integral part or way to their life. Sequel to this, majority are not informed on the cause and effect of corruption.

Media freedom: It is an established fact that a restriction to the freedom of the press is one of the phenomenon to corruption. Christopher Starke, Teresa K. Naab and Helmut Scerer 2016 in their opinion said that free media play a vital role in curbing corruption.

The Place Of Corruption In Criminal Law

Criminal law helps to fight corruption through the agents of criminal justice system. Notwithstanding, corruption cannot be completely submerged through criminal law, as in, there is no speedy or celerity of punishment by the criminal justice system. Also most time, intentional irregularities occurs during investigation of the accusers, hence punishment effect are reduced.

Conclusion

Criminal law played a lot of roles in regulation of conduct of people, place sanction or penalty to the defaulters for the maintenance of peace or orderliness within the state. However, the criminal justice system should be strengthen to help enforce and encourage independent of the judiciary.

Also, the 1999 constitution of Nigeria (as mended) should categorically state what constitute offence like corruption.

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