

Abstract

This study critically analyses the legal framework governing anti-corruption efforts in Nigeria and their influence on judicial performance. It reviews key anti-corruption laws, including the Corrupt Practices and Other Related Offences Act, the Economic and Financial Crimes Commission (EFCC) Act, and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act, examining their jurisdictional scope and effectiveness in fighting corruption in both the public and private sectors. The research highlights the roles, mandates, and operational challenges of leading anti-corruption agencies, such as the EFCC, ICPC, Code of Conduct Bureau (CCB), and the Nigerian Financial Intelligence Unit (NFIU), along with their enforcement powers through Nigeria's superior courts. Notably, the study critiques inconsistencies and constitutional controversies within some laws, such as provisions that seem to shift the burden of proof onto accused persons, and conflicts with constitutionally protected rights, including the presumption of innocence and the right to silence. Furthermore, the paper investigates procedural practice directions and legislative reforms aimed at expediting corruption trials to address long-standing delays in the justice system. The analysis underscores the judiciary's pivotal role in interpreting and enforcing anti-corruption legislation and stresses the importance of ongoing legal and institutional reforms. It concludes with a call for stricter adherence to procedural rules and enhanced cooperation among legislative bodies, the judiciary, and enforcement agencies to ensure more effective anti-corruption adjudication in Nigeria.

Keywords: Corruption, Legal Framework, Judicial Performance, Effect, Nigeria

1. Introduction

Successive governments in Nigeria have fought the war against corruption and continue to fight it. Legislation has been enacted; agencies/bodies that would give effect to the laws passed by the National Assembly have been established. However, laws are not meant to be static but to flow with emerging circumstances in society. Because law is a scientific discipline, it is often expected that our lawmakers revisit these laws from time to time to ensure they remain effective and applicable. Considering the above, it is imperative to examine the legal framework on corruption and its attendant effects on judicial performance. This would further expose the extent of jurisdiction and applicability of the existing anti-corruption legislation and how effective they have been in combating corruption. The study shall examine the anti-corruption legislation, agencies created by the legislation, paying particular attention to their individual jurisdictional scope of operation. In-depth analysis of practice directions with regard to criminal trials of selected offences (corruption inclusive) of the superior courts of records shall be made. This is pursuant to the powers conferred on them by the 1999 Constitution of Nigeria (as altered) to make rules of practice and procedure governing their respective courts, in order to enable the smooth running of their courts.

2. Anti-Corruption Legislation

In adopting the federal system of government, the 1999 Constitution (as amended) provided for distinct powers and duties amongst the Legislature, Executive, and Judiciary.¹ Saddled with law-making powers is the legislature, and in discharging this singular duty, the legislature is expected to bear in mind the prevailing happenings in society. They are to ensure that the laws they make are functional, operative and compatible with the populace for whom the laws are made. In the same vein, law makers are also to ensure that any legislation to be enacted by them is not in contravention of any provision of the Constitution or any existing law.² Even if there must be a contravening law, the new law is to repeal an existing law that contravened it. The fight against corruption in Nigeria has led to the enactment of anti-corruption legislation; some of the legislation went ahead to establish agencies to enforce those laws. Nigeria can boast of seven anti-corruption legislations, to wit;

- a) Corrupt Practices and other Related Offences Act No. 6, 2003;
- b) Economic and Financial Crimes Commission (Establishment etc) Act, N0.1 2004, CAP E1;
- c) Advance Fee Fraud and other Fraud Related offences Act, CAP A6, N0. 26, 2006;
- d) Money Laundering (Prevention and Prohibition) Act, N0.14, 2022;
- e) Dishonoured Cheques (Offences) Act, CAP D11, N0.44 1977;
- f) Recovery of Public Property (Special Provisions) Act, N0.3, 1984; and
- g) Code of Conduct Bureau and Tribunal Act, CAP C15, N0.1, 1989.

Uncertainty of Some Provisions of Some Anti-Corruption Legislation

In drafting or enacting a new legislation, it is often encouraged that drafters of such legislation should be discreet enough to ensure that the legislation sought to be drafted and enacted is not in any way in contravention of an existing legislation or the Constitution of the land.³ However, a careful perusal of some of the anti-corruption legislations, particularly the ICPC Act, EFCC Act and the CCBT Act, clearly shows that some provisions of these Acts are in contravention of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Though the constitutionality or otherwise of these provisions in violation of the Constitution are yet to be tested before superior courts of record, it suffices to say that an analysis of these sections at this juncture would not be out of place. Beginning the analysis with the ICPC Act, section 53 in its entirety is unclear, especially

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¹ Sections 4, 5 and 6 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

² Section 1(3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

³ National Assembly 'The Legislative Process' <https://www.nassnig.org/page/the-legislative-process> accessed on 25 April 2025.

when read side by side with the provision of section 36(5) of the Constitution.⁴ The Constitutional provision is to the effect that every person charged with a criminal offence shall be presumed innocent until he is proved guilty (the presumption of innocence of an accused person). However, section 53 of the ICPC Act provides for a presumption of guilt of an accused in some offences. The section provides thus;

Where in any proceedings against any person for an offence under sections 8 to 19 it is proved that any gratification has been accepted or agreed to be accepted, obtained or attempted to be obtained, solicited, given or agreed to be solicited or given, promised or offered, by or to the accused, the gratification shall be presumed to have been corruptly accepted to be obtained, solicited, given, promised or offered as an inducement or a reward for or on account of the matters set out in the particulars of the offence, until the contrary is proved.

It is worthy of note that in Nigeria's criminal jurisprudence, the accused person or offender at all material times is presumed innocent; it is the responsibility of the prosecution to prove otherwise.⁵ This onus does not shift unless and until the trial discharges this singular duty.⁶ This position was further reiterated by the apex court in *Adisa v State*⁷ where the court held that under Nigeria's criminal system, an accused person is presumed to be innocent until proven guilty. While in *Olaiya v State*⁸ the apex court held further that the burden of proving that any person has committed a crime or a wrongful act rest on the person who asserts it and that most often than not it is on the prosecution. The Supreme Court was more elaborate in *Ibrahim v State*; ⁹in this case, the court stated that the law does not impose a duty on the accused person to purge himself/herself of guilt. Rather, it imposes an obligation on the prosecution to prove the accused person's guilt beyond reasonable doubt. To the court, the section guarantees the right to the presumption of innocence of an accused person. It is the apex court's position that this principle is well settled under the Nigerian Criminal Jurisprudence. This is because Nigeria's criminal justice system is accusatorial in nature. More so, in our system, trials are initiated and sustained by accusation rather than by inquisition. Hence, the burden lies on he who asserts, while the law presumes the accused innocent.

As it stands, section 53 of the ICPC Act is unclear, especially in determining the draftsman's intent. The wordings used in the Act show that the accused is presumed guilty even before the prosecution proves his guilt. This clearly shifts the onus of proving the accused person's innocence to the accused himself, which is against the Supreme Court's position in *Ibrahim v State*.¹⁰

Furthermore, the provision of section 27 of the EFCC Act makes it obligatory for a person arrested for committing an offence under the Act to make full disclosure of all his assets and properties by completing the Declaration of Assets Form. This also contravenes the provision of section 35(2) of the Constitution, which provides for the right to silence for any person arrested or detained and can avoid answering any question until after consultation with a legal practitioner or any other person of his choice. When one compares the provisions of section 35(2) of the Constitution with sections 27(3)(c and d) of the EFCC Act, the area of conflict between the Act and the Constitution becomes clear, the effect of section 27(3)(c and d) is that if a person is arrested for committing an offense under the Act and fails to answer questions, make a full declaration, or provide any information required in the Declaration of Assets Form, that person commits an offense under the Act and can be sentenced to up to ten years in prison upon conviction. This provision directly contradicts the fundamental right to silence of an arrestee or detainee, as protected by the 1999 Constitution (as amended). The constitutional right of an individual is enforceable, and if violated, the victim can seek redress in court. This was the stance taken by the court in *EFCC v Odigie*. In that case, the court stated that when a person claims that their fundamental rights are being or are likely to be violated in any state, they can apply to a High Court in that state for relief, and the court has the jurisdiction to enforce those rights. Similarly, the right of a person in detention to remain silent, as guaranteed under section 35(2), is a fundamental right protected under chapter four of the Constitution. When it is infringed, the person can seek redress in court.

Similarly, the Code of Conduct Bureau and Tribunal Act is not left out in the contravention of the Constitution. The Act in section 23(7)¹¹ provides thus: 'the provisions of the Constitution of the Federal Republic of Nigeria 1999, relating to prerogative of mercy, shall not apply to any punishment imposed in accordance with the provisions of this section.' This provision may have been acceptable if the punishment the Tribunal could impose were limited to those provided for in section 23(2)(a, b and c) of the ICPC Act, which relates to vacation of office of public officer found guilty, disqualification from holding any public office for a period not exceeding ten years and seizure or forfeiture of any property acquired by the state.

However, section 23(3) of the Act¹² went further to empower the Tribunal to impose any punishment by law which breach is an offence under the Act, like the Criminal Code, Penal Code or any other enactment. Furthermore, the CCTB Act has failed to provide for specific punishment for offences punishable under the Act, bearing in mind that CCTB is a quasi-judicial body with criminal jurisdiction. The criminal jurisdiction of the CCTB was reaffirmed by the Supreme Court in *Saraki v FRN*¹³ where

⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended)

⁵ Section 36(5) of the Constitution of the Federal Republic of Nigeria (as amended)

⁶ *Olaiya v State* [2015]11 NWLR (Pt. 1470) pg. 360 @ pg. 365 CA

⁷ [2015] 4 NWLR (Pt. 1450), pg. 475 @ pg. 481 SC. See also *Alo v. State* [2015]9 NWLR (Pt. 1464) pg. 238 SC.

⁸ [2015]11 NWLR (Pt. 1470) pg. 360 @ pg. 365 CA

⁹ [2015]11 NWLR (Pt. 1469) pg. 164 SC. See also *Musa v Federal Ministry of Tourism* [2013]10 NWLR (Pt. 1363) pg. 556

¹⁰ *Supra*

¹¹ Code of Conduct Bureau and Tribunal Act, CAP C15 LFN 2004

¹² Code of Conduct Bureau and Tribunal Act, CAP C15 LFN 2004

¹³ [2016]3 NWLR (Pt.1500) pg. 531 @ 544 Ratio 11

it held that the Code of Conduct Tribunal is a quasi-judicial body having criminal jurisdiction, as such, it can try and punish for offences as provided by the CCBT Act. Having this position of the apex court in mind, section 36(12) of the Constitution¹⁴ also made it clear that a person shall not be convicted for criminal offences unless that offence is defined and the penalty is prescribed in a written law. This has also been judicially blessed in *George v FRN*¹⁵ and several other judicial authorities, where the court affirmed the position of section 36(12) of the 1999 Constitution (as altered). When one x-rays the entire provisions of the CCBT Act, particularly sections 6, 7,8,9,10,11,12,13,14 and 15 especially as they provide for the restriction on specific officers, prohibition of foreign officers from maintaining foreign account, abuse of power by public officers and bribery of public officers to mention but a few of the offences, the Act provided for specific offences the violation of which the Tribunal shall have the power to adjudicate upon. However, none of these offences have specific penal punishments attached to them, leaving the judge to exercise his discretion in ascribing punishment to a convict. This, in this writer's opinion, will give room for abuse by judges of the tribunal. The only attempt by the Act to provide for punishment was made in section 23(2) and (3), and these are general punishments, not specific. Section 23(3) CCBT Act, as stated earlier, would have saved the Act from falling short of section 36(12) of the Constitution, by giving the Tribunal powers to use other available laws that provide for similar offences as those of the Act and try offenders with the same. But the fundamental question that comes to mind is what if no law provides for similar offence(s) and punishment as those contained in the Act, what should the court do under those circumstances? The answer to this question definitely is an indication of the unclarity of the Act.

3. Anti-Corruption Agencies

Through the instrumentality of the above legislations, some anti-corruption agencies were created, like the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices and other related offences Commission (ICPC), and the Code of Conduct Bureau (CCB). These bodies help the judicial systems in bringing erring individuals to book when they are found wanting under the law. For example, section 1 of the EFCC Act¹⁶ establishes the Commission as a body corporate with perpetual succession and common seal, capable of suing and being sued. The Act¹⁷ went further in sections 6 and 7 to provide for the powers and functions of the Commission, which includes, but is not limited to, the enforcement and administration of the provisions of the EFCC Act, and shall also be a coordinating agency for the enforcement of the provisions of the following legislations:

- 1) the Money Laundering Act;
- 2) the Advance Fee Fraud and other Related Offences Act;
- 3) the Failed Banks (Recovery of Debt and Financial Malpractices in Banks) Act;
- 4) the Banks and other Financial Institutions Act;
- 5) the Miscellaneous Offences Act; and
- 6) Any other law or regulation relating to economic and financial crimes, including the Criminal Code and Penal Code.
- 7) Terrorism Act

Similarly, section 3 of the ICPC Act establishes the Commission as a body corporate with the right to sue and be sued. As a rider to the above provision, section 10 went on to provide for the Commission's general duties and, in addition, the Commission is saddled with the power to receive, investigate, and prosecute offenders. The Code of Conduct Bureau and Tribunal Act (CCBT) also established a body to discharge its affairs. In particular, section 1 of the Act established the Code of Conduct Bureau, while section 3 enumerated the Bureau's duties and responsibilities. Amongst the duties to be executed by the Bureau is the ability of the Bureau to receive and examine asset declarations by public officers and to also ensure that they comply with the requirements of the Act and of any law in force for the time being. To cap it up, section 20 of the CCBT Act created the CCB Tribunal and, in section 23(1), gave it the mandate to prosecute erring public officers whose acts contravene the provisions of the Act.

Independent Corrupt Practices and Other Related Offences Commission (ICPC)

The Independent Corrupt Practices and Other Related Offences Commission (ICPC) was established pursuant to the Corrupt Practices and Other Related Offences Act, 2000, now codified as Chapter C31 of the Laws of the Federation of Nigeria, 2004. This landmark legislation represents Nigeria's comprehensive statutory response to endemic corruption in public and private institutions. Section 3¹⁸ The Act, which establishes the ICPC, primarily articulates the Commission's purpose. However, Section 6 of the Act, which enumerates the Commission's duties, provides a more comprehensive account of the substantive purposes and functions. Section 6¹⁹ States exactly the purpose of the commission. The legislative provisions show a multifaceted approach to fighting corruption. The ICPC's mandate includes four distinct but related functions: investigation and prosecution (Section 6(a)), review and reform of the preventive system (Sections 6(b), (c), and (d)), public enlightenment and education (Section 6(e)), and engagement with civil society (Section 6(f)). This broad mandate demonstrates that corruption cannot be addressed solely through punishment but requires systemic reforms, capacity building, and cultural change. The investigative and prosecutorial functions authorise the Commission to receive complaints, conduct investigations, and initiate criminal proceedings against offenders. The preventive mandate, outlined in Sections 6(b) through (d), positions the ICPC as an agency responsible for institutional reform, with the authority to examine and recommend changes to administrative systems that

¹⁴ Constitution of Federal Republic of Nigeria 1999 (as amended)

¹⁵ [2014] 5 NWLR (Pt. 1399) pg. 1 @ pg. 9 Ratio 5

¹⁶ Economic and Financial Crimes Commission Act CAP E1, Laws of Federation of Nigeria 2004

¹⁷ *Ibid*

¹⁸ Corrupt Practices and Other Related Offences Act Cap. C31 LFN 2004

¹⁹ *Ibid*

facilitate corruption. The public education function recognises that lasting anti-corruption efforts depend on informed and engaged citizens who understand the costs of corruption and their role in combating it.

Economic and Financial Crimes Commission (EFCC)

The Economic and Financial Crimes Commission was created under the Economic and Financial Crimes Commission (Establishment, etc.) Act, originally enacted as Act No. 5 of 2002 and later amended by Act No. 1 of 2004. It is now codified as Chapter E1 of the Laws of the Federation of Nigeria, 2004. The formation of the EFCC was partly driven by international pressure, especially from the Financial Action Task Force (FATF), to combat money laundering and economic crimes. Statutory Provisions Establishing the Agency's Purpose The primary aim of the EFCC is outlined in the Act's Long Title, which states that it is 'An Act to establish the Economic and Financial Crimes Commission to combat economic and financial crimes and for related matters.' The establishment of the Commission is outlined in Section 1 of the Act, which states: 'There is established a body to be known as the Economic and Financial Crimes Commission (in this Act referred to as 'the Commission').' Nonetheless, the most detailed statement of the Commission's purpose is in Section 6 of the Act²⁰, which thoroughly outlines the Commission's responsibilities. The statutory provisions show that the EFCC was established as Nigeria's main agency for fighting economic and financial crimes, with a broader mandate than the ICPC. While the ICPC mainly handles corruption-related offences, the EFCC's jurisdiction covers a wide range of economic and financial crimes, including advance fee fraud (the well-known '419' scams), money laundering, cybercrime, counterfeiting, and terrorism financing. Section 6(b) provides an illustrative rather than complete list of financial crimes under the EFCC's scope, as shown by the use of 'etc.' at the end of the list. This drafting approach allows the Commission flexibility to address new forms of financial crimes without needing constant legislative changes. The coordination function in Section 6(c) designates the EFCC as the primary enforcement agency for economic crimes, authorised to oversee the activities of other agencies with similar mandates. The asset recovery provisions in Section 6(d) embody the modern view that effective anti-corruption efforts require not only punishing offenders but also recovering illicit gains to deter future crimes and return stolen assets to victims or the government. Sections 6(j) and (k) define the EFCC's role in international cooperation, acknowledging that economic crimes often cross-national borders and require coordinated cross-border enforcement. Section 6(l) designates the Commission as the primary recipient of suspicious transaction reports, making it Nigeria's primary financial intelligence coordination centre. However, this duty has since been shifted to the Nigerian Financial Intelligence Unit.

Code of Conduct Bureau (CCB)

The Code of Conduct Bureau was established under the Code of Conduct Bureau and Tribunal Act, originally enacted as Decree No. 1 of 1989 and now codified as Chapter C15 of the Laws of the Federation of Nigeria, 2004. The Bureau enforces the provisions of the Fifth Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended), which sets the code of conduct for public officers. The establishment of the Bureau is outlined in Section 1 of the Act, which states: 'There is hereby established a body to be known as the Code of Conduct Bureau (in this Act referred to as 'the Bureau').' The purposes and functions of the Bureau are detailed in Section 2 of the Act, which provides for the purpose and power of the commission. The Code of Conduct Bureau operates as the administrative and investigative body within Nigeria's ethical governance system for public officials. Its main responsibilities include four key tasks: collecting and reviewing asset declarations (Sections 2(a) and (b)), promoting transparency by granting public access to these declarations (Section 2(c)), ensuring compliance through monitoring and enforcement (Section 2(d)), and investigating complaints with the authority to refer cases to the Code of Conduct Tribunal (Section 2(e)).

The asset declaration function, based on paragraph 12 of Part I of the Fifth Schedule to the Constitution, requires public officers to declare their assets and those of their spouses and unmarried children at specified intervals. This mechanism is designed to detect unexplained wealth, identify conflicts of interest, and prevent corruption by promoting transparency and accountability. Section 2(c) establishes a transparency requirement by making declarations accessible for public review, subject to conditions set by the National Assembly. This provision allows citizens to scrutinise the wealth of public officials, promoting social accountability mechanisms that complement formal enforcement. The enforcement function in Section 2(d) grants the Bureau proactive compliance monitoring authority. In contrast, Section 2(e) outlines the Bureau's role concerning the Code of Conduct Tribunal, positioning it as an investigator and prosecutor of ethical violations before the Tribunal.

Code of Conduct Tribunal (CCT)

The Code of Conduct Tribunal was established by the same legislation that created the Bureau, the Code of Conduct Bureau and Tribunal Act, Chapter C15 of the Laws of the Federation of Nigeria, 2004. The Tribunal acts as the judicial body for alleged violations of the Code of Conduct. The establishment of the Tribunal is provided in Section 20²¹ of the Act, which states:

- (1) There is hereby established a tribunal to be known as the Code of Conduct Tribunal (in this Act referred to as 'the Tribunal'), which shall consist of a Chairman and two other members.
- (2) The Tribunal shall have power to:
 - (a) receive and hear complaints of the contravention of the provisions of the Code of Conduct or any law relating thereto referred to it by the Bureau;
 - (b) deal with and dispose of any matter properly brought before it under this Act; and
 - (c) conduct such investigations as may be necessary for the discharge of its functions.'

²⁰ *ibid*

²¹ Code of Conduct Bureau and Tribunal Act, Cap. C15 of the Laws of the Federation of Nigeria, 2004

Section 21²² further details the jurisdiction and powers of the Tribunal:

- (1) Subject to the provisions of subsection (2) of this section, the Tribunal shall have power to impose any of the punishments specified in paragraph 18 of Part I of the Fifth Schedule to the Constitution.
- (2) Where an allegation against a public officer has not been proved beyond reasonable doubt by the Bureau, the Tribunal shall make a finding that such allegation has not been proved.⁷

The Code of Conduct Tribunal functions as a specialised quasi-judicial body with exclusive authority over violations of the Code of Conduct. Its duties, as described in Sections 20 and 21, include receiving referrals from the Bureau (Section 20(2)(a)), holding hearings and investigations (Sections 20(2)(b) and (c)), and imposing sanctions as outlined in paragraph 18 of the Fifth Schedule to the Constitution. The sanctions available to the Tribunal, as referenced in Section 21(1), include removing officials from their positions or seats in legislative bodies, disqualifying them from holding public office for a specified period, seizing and forfeiting property acquired in violation of the Code of Conduct, and imposing other penalties deemed appropriate. These sanctions are designed to be both punitive and preventative, removing corrupt officials from office while discouraging future violations. Section 21(2) sets the burden of proof before the Tribunal to proof beyond a reasonable doubt, thus applying the criminal standard of proof in Code of Conduct cases. This high standard of evidence reflects the serious consequences of Tribunal decisions, including potential removal from office and disqualification from public service. The Tribunal's independent investigative authority under Section 20(2)(c) gives it power beyond just ruling on cases. It allows the Tribunal to conduct its own investigations when needed to resolve issues before it. This provision boosts the Tribunal's effectiveness by ensuring it is not solely reliant on the Bureau's investigative efforts.

4. Jurisdictional Scope of the Anti-Corruption Agencies in Nigeria

Jurisdiction, in legal parlance, is very important, especially in the judicial process. A court without jurisdiction is like a toothless dog that can only bark but cannot bite. It is so paramount that where a court adjudicates on a matter without jurisdiction, no matter how sound the judgment and findings of the court may be, the entire proceeding is a nullity. The Supreme Court has made several pronouncements on this matter and has put it to rest.²³ In the same vein, all anti-corruption agencies have their area of coverage and scope of operation. This scope enables them to function effectively without friction or overlapping on one another's jurisdiction. It is believed that the scope of operation of the ICPC is limited to combating corruption in the public sector. At the same time, the EFCC is only responsible for financial crimes, thereby giving them a restrictive scope²⁴. However, nothing in the ICPC Act stops it from conducting investigations and preventing corruption in the private sector; likewise, nothing prevents the EFCC from investigating and preventing financial crimes (corruption cases inclusive) in the public sector.²⁵ The EFCC Act, by section 7, saddled the Commission with the responsibility of being the coordinating agency for enforcing the provisions of legislation provided therewith.²⁶ As earlier discussed, all the Acts establishing these anti-corruption agencies (i.e Economic and Financial Crimes Commission, Independent Corrupt Practices and other Related Offences and the Code of Conduct Bureau) clearly provided for their scope of operations; however, some of the provisions seem not to be as discreet as expected. This could be seen when reading the provisions of sections 13 of the ICPC Act and 12 of the Code of Conduct Bureau and Tribunal Act. Both legislations provided for the offence of corruption by a public officer in discharging their official duties. However, while the CCBT Act provides for prosecution by the Tribunal of any public officer found in breach of the Act, the ICPC Act also provides for prosecution of erring officers by both the Federal High Court and High Courts of respective states. With provisions of this nature, public officers and both agencies combating corruption are left in a dilemma about which adjudicatory body to approach for the prosecution of public officers: the ICPC or the CCBT.

5. Procedural Practice Directions of Superior Courts in Nigeria

In Nigeria's judicial system, the court is expected to function effectively within the ambit of law and its rules. The presiding judge, being an impartial umpire, is often likely to take charge and be in full control of the proceedings before him. To this end, courts have evolved rules and practice directions to enable them to ensure that the mandate conferred on them by the Constitution is attained and that justice is not just heard but seen to be done. All the superior courts in Nigeria have the Constitutional power to make rules of procedure governing their courts.²⁷ Take, for example, section 236 of the Constitution of Nigeria 1999 (as amended). This provision clearly empowers the Chief Justice of Nigeria (CJN) to make rules of procedure for the apex court. The Constitution further empowers heads of other superior courts of records in Nigeria to make rules of procedure for their respective courts.²⁸ In furtherance of this constitutional power of the Heads of the superior courts in Nigeria to make rules of procedures for their courts, they can also make practice directions to abridge the shortcomings of the rules or for special cases, as a result of the delicate nature of the cases.

²² *Ibid*

²³ See *Ohakin v Agbaso* [2010]19 NWLR (Pt. 1226) pg. 172, see also *A.P.C LTD v. NDIC* [2006]15 NWLR (Pt. 1002) pg. 404

²⁴ See section 10 *Independent Corrupt Practices and other Related Offences Commission Act, CAP C31 LFN, 2004.*

²⁵ A. Y. Shehu, *Nigeria: the Way through Corruption to the Well-Being of a People* (National Open University of Nigeria Press Victoria Island-Lagos 2015) pg. 320

²⁶ The commission shall be a coordinating agency for enforcement of the provisions of – the Money Laundering Act, the Advance Fee Fraud and other Related offences Act, the Failed Banks Act, Banks and other Financial Institutions Act, Miscellaneous Offences Act, Penal Code and the Criminal Code (Section 7(2) ICPC Act, CAP C31 LFN, 2004).

²⁷ See sections 248, 254, 259, 264, 269, 274, 279 and 284 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) empowering the heads of Court of Appeal, Federal High Court, High Court of FCT Abuja, Sharia Court of Appeal FCT, Customary Court of Appeal FCT, State High Court, Sharia Court of Appeal of a State and Customary Court of Appeal of a State to make rules of procedure governing the affairs of their court.

²⁸ *Ibid*

Federal High Court (Criminal Trials) Practice Direction 2013

Rule 1 of the practice direction of the Federal High Court provides for the objective and guiding principles of the practice direction. The major aim of the direction is to ensure that unnecessary delay and expense for the parties involved in the court justice system are eliminated. More so, the practice direction shall only be applicable as provided under Rule 2, only to selected criminal offences, to wit: corruption, terrorism, kidnapping, trafficking in persons, rape and money laundering cases. The entire practice direction is made up of 11 rules; these rules govern the trials of the offences provided for under Rule 2(1) from commencement to final judgment, thereby abridging the requirements of the substantive rule of the Federal High Court governing criminal trials. By the practice direction, the complainant is not expected to file a charge unless all preliminary investigations are concluded and, in the opinion of the prosecutor, a prima facie case exists against the accused person. And where there is an application by the accused challenging the court's jurisdiction, the court is expected to deliver its ruling within 14 days of hearing the application (Rules 3 & 4)²⁹.

It is now a matter of practice amongst lawyers to seek unnecessary adjournments or file frivolous interlocutory applications in order to frustrate the smooth determination of a case, especially corruption cases involving top government officials. This was evident in *Nyame v FRN*³⁰ and *Dariye v FRN*³¹. In *Dariye's* case, the appellant was charged before the Federal High Court Abuja on 23 counts in 2007, and he pleaded not guilty to all the counts charged against him. On 13th of November, 2007, being date fixed for the respondent to open its case, the appellant (Joshua Dariye) brought an application before the trial court to quash all the 23-count charge against him on the ground of jurisdiction of the court to determine the case because the alleged offence was committed in Plateau State while the accused/appellant was being tried in Abuja, and on so many other grounds. The trial court and the Court of Appeal dismissed the application and held that the trial court had jurisdiction to try the matter. Dissatisfied with the decision of both courts, the appellant further appealed to the Supreme Court. In dismissing the appeal and delivering the lead judgment, *Nwali Sylvester Nguta JSC* had this to say:

The question is whether or not the avenue for the trial is suitable or convenient for the accused who is to stand trial. In the case at hand, key witnesses in the case are staff of the bank in which the appellant operated the account of his company. The bank is domiciled in Abuja where the said staff reside... to move the trial to Plateau State on the flimsy excuse that the documents relevant to the case are in Jos is, on the facts before us, an exercise in forum shopping, nor can the charge be struck out on the basis of forum non-convenience. I resolve the issue against the applicant. Trial was to start on 13th November, 2007 about eight years ago. The trial is yet to start. The issue raised in this application could have been properly raised in a no-case submission at the end of the prosecution's case; or in the defence of the appellant if called upon to defend...

From the above case, one could notice how the apex court lamented the time that was wasted by the court in determining an interlocutory application, leaving behind the substantive matter. This is where the practice direction becomes effective. The direction in Rule 7(4) provides that the court should not grant more than two adjournments to any party in an action for any offence covered by the direction. By this provision, trial of corruption-related cases may be fast-tracked, and major means for causing unnecessary delays are being blocked. It is often said that justice delayed is justice denied. In the spirit of ensuring substantial justice is done, especially in trials of corruption-related cases, the practice direction also provides for a daily sitting until the close of the case or verdict and that all witnesses should be in court until their evidence is heard and taken.³² Upon examining the entire provisions of the practice direction, the direction abridged the period provided by the substantive rules of court on filing, arraignment, hearing, and delivery of judgment by the court within the shortest time possible to prevent lawyers from taking an undue advantage in frustrating trials in court simply by relying on technicalities.

Court of Appeal (Fast Track) Practice Direction 2014

The Court of Appeal practice direction, just like that of the Federal High Court, is designated for selected criminal offences, amongst which are corruption-related cases.³³ Before the inception of the direction, by the Court of Appeal Rules, which is applicable to both civil and criminal matters, an appellant desirous of appealing the decision of the lower court is expected to do so within 90 days of delivery of the judgment of the trial court.³⁴ More so, upon filing of the Notice of Appeal by the appellant, the registrar is expected to also transmit the record of proceedings of the court below to the Court of Appeal within 60 days of filing the Notice of Appeal. However, with the introduction of the fast-track practice direction of the Court of Appeal, the period within which the appellant is to transmit the records of proceedings has been abridged to 30 days.³⁵ Where the registrar fails to do so within the period provided by the direction, the appellant is mandated to compile the records to consist of all documents and exhibits necessary for his appeal and transmit them to the court within 15 days after the registrar's failure or neglect to do so.³⁶ A new initiative was introduced by the fast-track direction known as the Active Case Management.³⁷ This case management initiative is similar to the Pre-trial Conference Management in civil matters used in our High Courts.³⁸ By this case management, the Court of Appeal is expected to iron out preliminary and trivial or non-contentious issues. It is to

²⁹ Rules 3 and 4 Federal High Court (Criminal Trials) Practice Direction 2013

³⁰ [2010]7 NWLR (Pt. 1193) pg. 344

³¹ [2015]10 NWLR (Pt. 1467) pg. 325 SC

³² Rules 9(1) and 7(3) of the Federal High Court (criminal trials) Practice Direction, 2013

³³ Rule 1(1) Court of Appeal (Fast Track) Practice Directions 2014

³⁴ Section 24(2)(b) Court of Appeal Act, CAP C36 Laws of Federation of Nigeria, 2004

³⁵ Rule 13(1) Federal High Court (Criminal Trials) Practice Direction 2013

³⁶ Rule 13(5) *Ibid*

³⁷ Rule 4 and 6 *Ibid*

³⁸ Orders 25 High Court of Lagos State (Civil procedure) Rules 2012 and Niger State High Court Civil Procedure Rules 2012

further enable the court to fix timetables for cases, discourage interlocutory applications, advise parties to co-operate with each other during the conduct of the proceedings, etc. Finally, unlike the usual notice of change of counsel by any party intended to do so to the court, the direction has done away with that; the court will not entertain any excuse for adjournment from any party on the ground of change of counsel.³⁹ Parties can on their own change their counsel at any time without informing the court or giving notice to the other party.⁴⁰

Supreme Court (Criminal Appeals) Practice Direction 2013

The major objective of the Supreme Court practice direction is not different from that of the Court of Appeal and the Federal High Court. It is basically for the purpose of providing fair, impartial and expeditious administration of criminal appeals.⁴¹ The criminal appeals referred to by the direction are also the same with those of the two courts discussed earlier, which is inclusive of corruption related cases.⁴² To achieve the stated objectives, the Supreme Court abridged the time filing and hearing interlocutory applications,⁴³ period for compilation and transmission of record of proceedings from the Court of Appeal,⁴⁴ the time frame for filing both the appellant and the respondent's briefs of argument and the determination of the appeal alongside any interlocutory application.⁴⁵ The case of *Dariye v FRN*⁴⁶ comes to mind on how the apex court lamented over the time consumed by the courts just on interlocutory application on a jurisdictional issue which the apex court itself had put to rest. The Supreme Court was of the opinion that the issue raised in the appellant's application could have been properly raised in a no-case submission at the end of the prosecution's case, or in the defence of the appellant.

Administration of Criminal Justice Act 2015 (ACJA)

The Administration of Criminal Justice Act (ACJA) came into effect in 2015, to address the shortcomings of the Criminal Code and Penal Code Acts respectively. Though an Act of the National Assembly, it is only applicable in Federal courts and in courts of States that may have domesticated the law. Impressively, almost all the states of the federation have domesticated the provisions of the Administration of Criminal Justice Act, 2015 into law. The provisions of the Act have helped tremendously in solving to some extent the problem unnecessary delays faced in prosecuting criminal matters (corruption cases inclusive) before courts in Nigeria, if properly implemented. More so, the Act in section 306⁴⁷ provided against entertainment of interlocutory application for stay of proceedings in criminal matters. That is to say, where a ruling is made by a trial judge on an interlocutory application, further appeal by an aggrieved party on the ruling of the court would not be entertained as a ground to stay the proceedings of the trial court pending the outcome of the application by the appellate. This has been a major setback in trial of corruption related cases as could be seen in *Nyame v FRN*⁴⁸ and *Dariye v FRN*,⁴⁹ where the cases lingered for several years on interlocutory application, while proceedings were stayed in the matters. Furthermore, section 396 (3), (4), (5) and (6) of ACJA provides for speedy dispensation of criminal cases. To this end, it provides for day-to-day sitting in trial of criminal cases. Where daily sittings seem not practicable, the ACJA provides that the court shall not adjourn a matter for more than five times, provided that the interval between each adjournment shall not exceed fourteen days.⁵⁰ Under this provision, every criminal matter is not expected to last more than 70 days from arraignment to judgment.

5. The Interpretation and Enforcement of Instruments of Corruption in Nigeria

The fundamental duty of the judiciary is the interpretation of the law.⁵¹ In performing this duty, judges are not to use their discretion anyhow, but confine their actions within the bounds of the law. This was also the position of the Supreme Court in *Tafida v FRN*⁵² wherein the apex court held 'the interpretation of a penal legislation or any statute for that matter should not be left to the whims and caprices of the judge called upon to interpret the legislation.' As a result of practice over time by Judges, various rules of interpretation were developed to assist judges in arriving at a smooth and just interpretation of laws they apply in the adjudication of cases before them.⁵³ In applying the rules of interpretation, there are a number of aids in the Act or Law itself that assist judges in construing the meaning of a provision in statutes or legislation. Some of these aids are long title, the marginal notes, the section headings, the schedules, preambles, white papers or explanatory memoranda attached to Bills before National or State Assemblies and the Hansard report of proceedings before the National Assembly.⁵⁴ The commonly used rules of interpretation are the literal, golden, mischief, or purposive rules.⁵⁵

It is a trite law that when the Constitution and or any statutory law are to be interpreted in order to determine what the lawmakers intended by such legislation, the literal rule of interpretation should be adopted, unless it would result in absurdity or cause any

³⁹ Rule 11 Court of Appeal (Fast Track) Practice Direction 2014

⁴⁰ *Ibid*

⁴¹ Rule 1(a) Supreme Court (Criminal Appeals) Practice Direction 2013

⁴² Rule 2(1) *Ibid*

⁴³ Rule 1(e) *Ibid*

⁴⁴ Rule 4(2) *Ibid*

⁴⁵ Rules 6 and 7 *Ibid*

⁴⁶ *Supra*

⁴⁷ Administration of Criminal Justice Act 2015

⁴⁸ *Supra*

⁴⁹ *Supra*

⁵⁰ Section 396(4) Administration of Criminal Justice Act 2015

⁵¹ Section 6 of the Constitution of Federal Republic of Nigeria 1999 (as amended)

⁵² [2014] 5 NWLR (Pt. 1399) pg. 129 @ 136

⁵³ K. Malleon, *The Legal System* (Oxford University Press, Oxford, 2003) pg. 61

⁵⁴ *Ibid*

⁵⁵ *Ibid*

inconvenience.⁵⁶ But when the ordinary or literal meaning of the unambiguous words fails to bring out the intention of the lawmaker or leads to an absurdity, then resort can be made to constructive interpretation.⁵⁷ This is where the golden rule of interpretation comes into play, as the rule is to the effect that where absurdity will be the outcome of using the literal rule, the judge should look at the language of the statute in order to produce a sensible result.⁵⁸ While the mischief or purposive rule, on the other hand, is for the judge in reading the content of a statute, to understand why the parliamentarians wished to pass the law in the first place.⁵⁹ The essence of looking at the rules of interpretation vis-à-vis the role of the judiciary in interpreting anti-corruption legislations is to put a wake-up call to the judiciary, for them to rise to the expectations the society deposed on them, without allowing adjudicative technicalities to overshadow the performance of their functions. Especially when lawyers who are expected to be ministers in the temple of justice turn around and rob it. By applying the provisions of anti-corruption legislation in the context that suits their cases, without being mindful of the spirit of the law. Where the judiciary has exhaustively discharged its duty by adjudicating on cases (corruption-related cases), and arriving at a verdict, the enforcement of such judgment is no longer within the purview of the judiciary but the anti-corruption agencies. Whatever the order of the court is, as long as such an order was made within the confines of the law, the agency concerned is saddled with the responsibility to ensure that the same is executed to the letter.⁶⁰

6. Conclusion

The analysis of the legal regime of the existing anti-corruption legislations in this work has exposed some of the strengths and weaknesses of the laws that are meant to help in combating corruption. It has further broadened one's horizon to see the effort in place by the judiciary in giving effect to the powers conferred on them by the Constitution to make rules that will govern the practice and procedures of their respective courts. In this chapter, the study was able to examine the existing anti-corruption legislation, paying attention to its jurisdictional scope. It is evident that there is often the mistaking believe that the scope of operation of the ICPC is limited to combating corruption in the public sector while the EFCC is restricted to financial crimes or corrupt activities in the private sector. Suffice it to say, that the study was able to examine the various anti-corruption Acts to come to the conclusion that nothing in the ICPC Act prevents it from conducting investigations and preventing corruption in the private sector, neither has the EFCC Act prevented the commission from investigating corruption in the public sector. Furthermore, the Administration of the Criminal Justice Act 2015 and the practice directions of the superior courts of records as examined had made adequate provisions to ensure for speedy trials of corruption related cases. Hence, if strictly adhered to, it would do away with the problem of unnecessary delay of trials of corruption related cases. It therefore behooves on relevant authorities and bodies to act fast and ensure that these laws and practice directions do not become obsolete but remain active, effective and useful. More so, as the fight against corruption is in the front burner of the present administration, all hands must be on desk in ensuring that the anti-corruption legislations and agencies live up to the expectations that society have bestowed on them.

⁵⁶ *Jegade v. Akande* [2014]16 NWLR (Pt. 1432) pg. 43 @ 56, see also *South Trust Bank v. Pheranzy Gas Ltd.* [2014]16 NWLR (Pt. 1432) pg. 5 @ 8

⁵⁷ *Regd Trustees A.O.N v. N.A.M.A* [2014]8 NWLR (Pt.1408) pg.1 @ pg. 20 Ratio 18

⁵⁸ K. Malleon, *The Legal System* (Oxford University Press, Oxford, 2003) pg. 61

⁵⁹ *Ibid*

⁶⁰ Section 6 and 7 of the Economic and Financial Crimes Commission Act, section 10 Independent Corrupt Practices and other Related Offences Act and sections 3, 20, 23 of the Code of Conduct Bureau and Tribunal Act