

Socio-Economic Effects of Judicial Corruption in Nigeria

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ABSTRACT: *In every historical epoch from ancient period to the modern society there are rules and regulations that govern the conduct of human activities. These rules and regulations are necessary to keep human society moving in a desired direction. Essentially this is what makes human society differ from animal kingdom. It is expected that those rules and regulations either formal or informal must be broken by certain individuals in the society. For these reasons punishment are designed to keep the society intact. Those who deviate are punished. It is essential to serve as a punishment for their offence and as a deterrent to others. The judiciary is the organ responsible for policing human behaviour in every society. This study maintains that the legal structure is like a pillar that holds the society together, once it collapses every segment of the entire society will collapse as well. The author posits that discrepancies in the distribution of justice are responsible for the pervasiveness of corruption in our society. He further maintains that except the judiciary is strengthened the battle against corruption will be difficult to achieve.*

Keywords—*Corruption, Judiciary, Effects, Socio-economic development.*

I. INTRODUCTION

Corruption in developing countries continues to be one of the greatest factors of poverty, development and internecine conflicts. Although many developing nations especially in Africa are endowed with priced natural resources, they continue to struggle and scramble for position in the lower rungs of the United Nations Development Index. Though, most developing countries continue to grapple with the ever changing trends in global politics, economic and technological advancement has little or no role to play in the advancement of the standard of living of the people due to the debilitating effects of corruption on their very existence. Therefore, it is no exaggeration to conclude that Nigeria is one of the most endowed nations in the world with abundant human and natural resources. There is practically every vital mineral deposit in all the states of the federation. As a result of the fertile nature of Nigeria soil, a finger thrust in the soil will grow. Yet, corruption has made it impossible for Nigeria to achieve meaningful development.

In every society, human activities are organized in groups in order to make the world meaningful. These group activities can be formal or informal. There are social structures that govern and regulate the behaviour of people within the group. This is essential because without this form of regulative mechanism, life becomes nasty and brutal just as it is in the animal kingdom. This is one of the fundamental reasons why the rule of law exists in the first place. Those who deviate are held accountable for their abnormal behaviour, in other words they are punished. Various scholars have tried to explain why people indulge in abnormal behaviour. This is done so that appropriate measures can be applied to discourage such behaviours. Corruption is not an exception to such abnormal behaviour.

In order to maintain this rule and regulation, the judiciary's foremost role as the third branch of government is to defend and uphold the Nigeria Constitution and assure that the rule of law prevails. Under that general duty and mandate, the everyday work of the judiciary reflects to some extent the level of a court's or judge's jurisdiction. However, a pervasive element in the judiciary's role at every level is the protection of each person's Constitutional, human, civil and legal rights. The judiciary also has an essential role in protecting the people from the wrong-doing of others, protecting the weak from the strong, and the powerless from the powerful as well as protecting individuals from the unwarranted or unlawful exercise of power by the State. Moreover, the judiciary plays a crucial role in securing domestic tranquillity by providing a structured institutionalized forum for the resolution of discord and the vindication of civil and criminal wrong-doing. But due to the high level of corruption within the judiciary, the role of the judiciary becomes questionable in the public eyes.

1. The Concept of Corruption

Understanding the concept of corruption presupposes that one should have a clear dichotomy between what it entails in the simplest term. There is no single accepted definition for the term 'corruption' because what

may seem to be corrupt in one society may not necessarily be perceived as such in another. Though there have been different attempts to define it, there is no precise, clear definition that can be applied to all forms, types and degrees of corruption. The concept of corruption is a value-oriented concept. It is difficult to discuss it without emphasizing its moral aspects. Ley (1965) believes that “moralizing corruption is difficult and therefore, condemns the moralizing approach”. Such authors forget that, the main basic research which research is done on corruption is to improve the moral quality of public officers. For the purpose of this study, the term corruption refers to any act by a public official which violates the accepted standard of behaviour in order to serve private or selfish-ends. The end which the behaviour will serve may be social, economic or political. These –standard may be legal or conventional norms for private gain. Private gain will include the gains in cash or in kind for one’s self, relative or friends.

Since Nigeria’s Independence, bureaucratic – corruption has been in existence. It has always been a social problem in Nigeria. Records show that the existence of this problem can be trace to the colonial era. The irony is that those at the helm of affairs of government has always pretended that it does not exist and have often ignored all petitions against corrupt officials. Another phase of corruption in Nigeria started with nationalists’ leaders, who having dislodged the colonial masters, assumed political authority and used it for their personal interest. During the second republic, corruption has spread into the civil society. It became identical to the society. By 1984-93 corruption attained a form of sophistication that can be said to be unprecedented in the history of Nigeria. It took on a new name “**settlement**”. This name gives it a ting of moral imperative and renders it more convenient to be bracingly and legitimately canvassed in official transactions. From 1993-1998, corruption has transmuted from vice to virtue. Nigeria became the infamous leader of the most corrupt countries in the world. It became entrenched as the new culture. It spread to most homes and offices. Government departments became the nerve centres dictating the pace and the going rates.

II. THE ROLE OF JUDICIAL SYSTEM ON SOCIO-ECONOMIC DEVELOPMENT

In any society, the rule of law is essential in the creation, preservation and advancement of a civilized society. When judges responsively punish wrongs, protect rights and resolve discord by thoughtful, independent and unbiased application of laws, the justice system secures the freedoms, tranquillity and equality that foster a social environment wherein man’s highest aspirations and evolution can be realized. Working to ensure that laws are applied to all in a fair, reasonable and understandable manner, judges can instil confidence that allegiance to and reliance on the law and legal process is the best hope for achieving the fullest measure of human justice, social harmony and progress.

The role of judicial systems in determining economic development has gained increasing attention in recent years. While many authors list them among the main determinants of growth, some go as far as having to single them out, along with economic policies, as the most important determinant of a country’s success in accomplishing economic development, North (1981) and Olson (1996). In fact, according to some estimates, “countries with good institutions are twice as efficient and grow three times as fast, in per capita terms, as countries with poor institutional endowments” Scully (1988).

Among the institutions that most influence economic performance, the legal and judicial systems play a prominent role. The rapid increase in the number of law and economic associations throughout the world attests to this recognition, as does the growing number of professors of economics teaching in law schools. There are essentially three ways through which law and economics may interact (Stigler, 1992). First, economists may assist courts and lawyers in general in antitrust cases and other types of foreign trade litigation, and policy-oriented cases in general. Second, economics helps in understanding incentives to litigate. The process of litigation itself and the costs involved. This brand of literature has also developed quite successfully in recent years, accompanying the rise in the number of lawsuits, the cost of trials and the size of the compensations awarded.

A third area is analyzing the role of legal and judicial institutions in determining the pace and form of economic development. What are the merits and flaws of different legal and judicial systems? What are their distributive impacts? How should legal and judicial systems be reformed in developing and transiting economies to foster economic growth? Who are the beneficiaries and the opponents of judicial reform in these countries? These are all questions that economics can help to answer. In fact, the importance, even urgency, to answer these questions is currently widely acknowledged. In particular, as developing and transition economies adopt market-oriented policies, such as trade liberalization and privatization, many transactions formerly carried out inside large organizations or under public sector coordination are being transferred to the market, so as to enhancing the need for well-functioning judicial systems that protect and enforce rights and contracts.

More so, “a number of studies show some of the positive benefits of strong effective judiciaries. The degree of judicial independence is correlated with economic growth” Feld and Voight (2004). For (Islam, 2003) better performing courts have been shown to lead to more developed credit markets. A stronger judiciary is associated with more rapid growth of small firms as well as with larger firms in the economy. Economic studies

show that within individual countries, the relative competence of provincial and state courts affects comparative economic competitiveness. Studies from Argentina and Brazil show that firms doing business in provinces with better-performing courts enjoy greater access to credit. New work in Mexico shows that larger, more efficient firms are found in states with better court systems. Better courts reduce the risks firms face, and so increase the firms' willingness to invest more, (World Bank, 2004).

It is important to note here that differences in public policies and institutions are currently recognized as one of the key explanations for the large differences in levels and growth rates of per capita GDP among countries North (1981 and 1990) and Barro and Lee (1994). To some, it is not only an important cause, but the most important one North (1981) and Olson (1996). In fact, for Olson (1996), reforming economic policy and institutions is sufficient for rapidly getting a country into a high growth track: "But any poorer countries that adopt relatively good economic policies and institutions enjoy rapid catch-up growth..."

Olson's arguments are given empirical content by Scully (1988), who analyzed the impact of institutions on the efficiency levels and growth rates of 155 market economies. Scully reached three main conclusions. First, countries with good institutions -- that is, "politically open societies, which bind themselves to the rule of law, to private property, and to market allocation of resources" -- grow three times as fast, in per capita terms, as countries with poor institutions (2.73 to 0.91 percent annually). Second, countries with poor institutions are only half as efficient as those with a good institutional framework. Third, countries with poor institutions tend to show a continuous decline in efficiency, whereas those with good institutions have already captured all efficiency gains, so that in these countries "one should not expect an improvement in efficiency over time."

More so, the importance of well-functioning judicial systems is stressed by North (1992):

"Indeed, the difficulty of creating a relatively impartial judicial system that enforces agreements has been a critical stumbling block in the path of economic development. In the Western world the evolution of courts, legal systems, and a relatively impartial system of judicial enforcement has played a major role in permitting the development of a complex system of contracting that can extend over time and space, an essential requirement for economic specialization."

Legal systems in market economies -- or, as Cooter (1996) puts it, in rule-of-law states -- establish the rules of the game and the mechanisms individuals may resort to enforce their rights. As pointed out by Hay, Shleifer and Vishny, (1996):

"The rule of law means, in part, that people use the legal system to structure their economic activities and resolve disputes. This includes learning what the legal rules say, structuring their economic transactions using these rules, seeking to punish or obtain compensation from those who break the rules, and turning to the public officials, such as the courts and the police, to enforce these rules."

In particular, economic law performs four major functions. First, it defines and protects property rights, particularly private rights. Second, it sets rules for trading those rights, not only among private agents, but also between these and the state. Third, it defines rules for entering and exiting the market. Fourth, it promotes competition and regulates behaviour in sectors where monopolies prevail. In addition, as remarked by Sherwood, Shepherd and Souza (1994):

"In market systems, the legal framework (ideally at least) will establish durable property rights which are difficult to alienate arbitrarily and provide means to assure those rights are clearly assigned across all property; allow substantial activity; allow substantial freedom for association in forming companies and, by allowing for limited liability, both encourage the raising of capital and provide for orderly dissolution of associations, firms, joint ventures and so on."

For Coase (1960) a well-functioning judicial system may also improve economic performance by correcting various market failures. For example, judicial imposition of legal liability for certain types of harm may induce private parties to internalize what would otherwise be negative externalities associated with their conduct. Coase further posits that, a well-functioning judicial system may allocate liability in such a way that total social costs (including the transaction costs associated with bargaining around the initial allocation of legal rights) are minimized

More importantly, another aspect of judicial dispute resolution thought to be particularly important to economic development is the role that the judiciary plays in making commitments -- particularly commitments by the government -- more credible. The basic credible commitment, or time consistency, problem, which is no doubt familiar to most readers (Kydland and Prescott 1977), has particular salience for the governments of developing economies, which need to convince both their citizens and international investors to invest in the long term without fear that the government will appropriate the value of these investments (Brunetti and Weder 1994; Henisz 2000).

An independent, effective judiciary is thought to enhance the credibility of government commitments for at least three related reasons. First, because courts are supposed to resolve disputes according to pre-existing legal commitments -- whether contained in contracts, statutes, or constitutions -- judicial dispute resolution is

thought to promote the ability of parties, including the government, to bind themselves to take (or forgo) certain actions under specified circumstances. Second, because of the publicity and transparency of judicial decisions, courts that are perceived as independent may be a useful signal for other parties to monitor the government's adherence to its promises and to coordinate their responses to perceived transgressions (Sutter 1997). Third, even when the government has not bound itself absolutely, the need for judicial approval and the threat of litigation can make certain actions more costly at the margins, thus reducing their attractiveness.

III. USING HEDONISTIC THEORY TO EXPLAIN JUDICIAL CORRUPTION IN NIGERIA

Hedonistic theory posits that nature has placed mankind under the governance of two sovereign masters, pain, and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. The theory of hedonism holds that it is an essential aspect of human nature to seek pleasure and avoid pain; human beings cannot act in any other way. A human being will always act in a way that, to his understanding, will produce what he/she perceives as the greatest pleasure, or protect him/her from undesirable pain. Therefore, hedonistic theory view human being as rational in other word one who calculates his actions view the consequence before he/she act. In explaining judicial corruption in Nigeria, this theory asserts that judges deliberately choose to act in a corrupt way in other to maximize pleasure and to avoid pains. In this way, corruption can be reduced if laws were written and made known to all, if the punishments slightly outweigh the advantage to be gained from the crime, and if a law enforcement system were established which almost guarantee punishment for any crime irrespective of one's status in society, then one would hope that crime would be almost wiped out.

However, hedonistic theory implied an explanation of crime; people who commit a crime (corruption) do so because they gain more than they lose. The assumption that practically everyone is capable of committing a certain kind of crime sets Beccaria's explanation of crime apart from those of many other criminologists. Beccaria believes that a threat of legal punishment sufficient to deter one person would discourage most people as well. Therefore, the rampant cases of corruption exist because of the weak judicial system in the country.

IV. JUDICIAL CORRUPTION ITS EFFECTS ON SOCIO-ECONOMIC DEVELOPMENT IN NIGERIA

What distinguishes human society from animal kingdom is the ability to reason in a rational and appropriate way. Animals are controlled by biological instincts while humans are controlled by rational impulse. This rational impulse is dictated by societal normative values in other words by cultural values. Culture is a guiding map that guides us on how to behave in public and respond to certain stimulus in an appropriate manner. The dos and the don'ts of every society are spelt out in their cultural values. Because of cultural variation and the plural nature of modern society, laws are written and enacted to regulate human excesses and to integrate members of the society. Without this form of social control, life becomes meaningless. For these reasons, a weak judicial system is a fertilizer to all forms of social ill in any society. This is because every social organization whether formal or informal relies heavily on certain rules and regulations that allows for the well functioning, promotion and achievement of organizational goals. These rules and regulations are the foundation and the pillar that hold the society together, once this pillar collapses, the entire system is disorganized and individual in society are disoriented and the ugly face of corruption begin to surface in all spheres of life, which makes it difficult for the attainment of organizational goals.

Nigeria has not been particularly fortunate in its drive to evolve functional democratic governance since 1999, which could deliver the oft-mentioned but elusive dividends to the people, principally because of the unspeakable greed of its political class, and the attendant impunity accentuated by a seemingly compromised and disabled judiciary. More so, the African Peer Review Mechanism (APRM), for instance, in its 2008 Report on the country, affirmed that "There is virtual agreement among observers that economic and political corruption primarily explains poverty in Nigeria", which at the last count grips about 70 per cent of the population, noting that "it (corruption) has held back economic growth and development, and frustrated incentives to align budgetary allocations with development priorities."

Interestingly, the general expectation has, always, been that the judiciary should function in such a manner as to mitigate, if not eliminate, this depressing corruption poverty conundrum in the country. Unfortunately, this is becoming one huge forlorn hope. Once the moral foundation of society is destroyed, what is left for the righteous? In other words what shall a country with a corrupt judiciary achieve in terms of socio-economic development? The foundation of justice in Nigeria is being irretrievably destroyed by corruption, to the concern of many, was brought to the fore recently when the report of a survey on crime and corruption in the country, conducted by the Economic and Financial Crimes Commission and National Bureau of Statistics with the support of the United Nations Office on Drugs and Crime, was released.

According to this report "Nigerian courts of law receive the biggest bribes from citizens among all

institutions in which corruption is rampant", though it also indicated, for effect, that "among public officials, police personnel were most frequently alleged by respondents (58 per cent) to request the payment of bribes followed by employees of PHCN and the Water Board (39 per cent), Revenue officials (26 per cent) as well as Customs (25 per cent)." The executive summary of the survey particularly stressed that "though bribery in the judiciary was less frequent than in many other agencies, it requires the biggest transactions." Respondents to the survey conducted in 2007, on a sample of 2,775 enterprises randomly selected to represent businesses active in the country, and a response rate of 79.4 per cent representing 2,203 interviews recorded, said they have paid the biggest bribes to the courts, an average of \$87 (N13,050) per transaction. More so, UNODC survey reveals that "for more than 70 per cent of Nigerian businesses, crime and corruption constitutes the most serious obstacle to conducting business" in the country. Now, with a corrupt judiciary to boot, it means things have fallen apart with the resultant effect of the centre no longer been sure of holding itself.

Furthermore, endemic corruption in the judiciary, if left unchecked, could sound the death knell for justice administration and delivery in the country with dire consequences for its democratic governance. Looking at the activities of elections petitions tribunals, involving judges across the country, was mind-shattering this is because many of the judges are not just millionaires as people believe but billionaires. It is important to know that election tribunals were becoming goldmines for Nigerian judges; most of the judges are using the election tribunals as a source of generating wealth for themselves. A critical look at the judges who had gone through election tribunals are millionaires today.

Weak judicial system is a serious cause of corruption. Most often, judicial systems are weak as a result of poor conditions of service. In such situations, it is the poor people that suffer the brunt of injustices as the rich always stand a better chance of getting justice over the poor. Furthermore, the absence of clear-cut separation of powers between the judiciary and executive arms often results in the latter exercising undue influence over the former. Additionally, deficiencies in the judicial/legal system can exacerbate inequitable political or economic situations. Disparate treatment by authorities can undermine non-dominant groups' confidence that the system will redress their grievances, leaving no alternative to violence, for example, where access to and transparency of the judicial system is limited to those who speak an official language (bribery), ethnic groups who speak a different languages are left outside the legal system. A functioning judicial/legal system is important for sustained democracy. In some conflict situations, dealing effectively with the injustices of the past is critical to breaking the culture of impunity that provides incentives for violence.

With this development society will come to a complete standstill and development will not begin to take place if an effective legal system or legal framework of laws which will govern the conduct of people to ensure they behave in a particular manner, is not established. Furthermore, all experts who have examined this concept of development have found that economic prosperity takes place in a country where there is a functional legal system. All the economic superpowers in the world are there for many reasons and one of the fundamental reasons for attaining that level of success is because they have a legal system that is functional. For instance, USAID (1994) pointed out that poorly functional or biased judicial/legal systems contribute to conflict when they support the arbitrary use of political and economic power and help maintain the status quo by denying citizens legal recourse against the state or against privileged non-state actors for wrongs against individuals or groups, including genocide, torture, expulsion, persecution, or other political violence. More so, political violence thrives where there is insufficient legal protection, failure of judicial/legal procedure, and a lack of professionalism among judicial/legal system personnel.

In the same analysis Wheatley (2005) maintains that Brazil's dysfunctional judiciary ... is increasingly seen as an obstacle to national development. It is a system that allows debtors of all kinds to abscond at will, knowing that none but the most determined of creditors will pursue them through the courts. It forces banks to lend at astronomical rates of interest because they cannot foreclose on debts. More worryingly, it means that vital infrastructure projects are stalled because investors cannot be sure the judiciary will uphold their rights.

The consequences of corruption in Nigeria economy are unquantifiable. Corruption is one of the greatest challenges of the contemporary world. It undermines good government, fundamentally distorts development, and particularly hurts the poor. More so, a lot of people saw the opportunity to share from the "National Cake" and as such, 'Mushroom' companies sprang up all over the country, competing for contract award. Such contracts were awarded, not the companies with reasonable quotation, but to those who were able to settle government officials with "Kick Back." In many respect as of today ones qualification would not guarantee ones admission or a Job in some institution, the criteria is particularistic. Therefore, the issue of meritocracy in either seeking for admission in any institutions or seeking for employment in any organisation or for promotion in an organisation has then turned upside down ever since corruption was institutionalised in Nigeria.

The impact of corruption on developing countries cannot be overemphasized. The results are often disastrous. The occurrence of corruption in large scale reflects in many areas of development and is intrinsically linked to under development. Poor conditions of service as is the case in many developing countries open the

door to bribery. Corrupt officials often accept substandard quality of service because of kickbacks thus depriving the country of value added service from contractors and consequently resulting in the implementation of water washed roads or schools. Health care facilities remain inadequate and inaccessible because most times, drugs meant for children and women particularly in provincial clinics and hospitals could be easily seen on the shelves of private pharmacies.

One of the greatest impacts of corruption normally arises out of the choices and priorities of governments. This occurs when the real development priorities of a country are often neglected in favour of those that generate the greatest personal gains for the decision makers. Here, it is clearly evident that many projects have become white elephants and easy route for personal enrichment. When loans taken by governments on the pretext of undertaking some projects are diverted to private accounts, the attendant effect is that such loans would have to be paid with interest and at the same time increasing the debt burden of the country.

Finally, under a weak and corrupt judicial system it is difficult for a lawyer to predict the likely outcome of a case based on the merit, facts, the law and the brilliance of the lawyers who handle the case. However, politicians would text the outcome of the judgement to their party men before the judgement is delivered and prepare for their supporters ahead of time for celebration. One of the side effects of a corrupt judiciary is that it becomes inevitably too weak and increasingly incapable of discharging its critical responsibilities to the society, especially to the poor and vulnerable. Incidentally, this is one of the indicators of a "failed state", according to the Failed States Index.

IV. CONCLUSION

The most important issues facing the judiciary today particularly the court emanate from the court's primary mission—to secure justice for all. Justice is an empty promise if an individual or group is denied attainable and equal access to the courts. Economic, political, social, and cultural, and ethnic barriers to the court unfortunately still exist. Several scholars have argued that Nigeria criminal justice institutions and officials are ineffective, corrupt, and repressive. The world over, an independent judiciary is regarded as a sine qua non for a functional democracy. In fact, its centrality to social harmony and good governance in any given democratic society is widely documented. This explains why advocates of good governance, for instance, stress that if the rule of law must be guaranteed in a democratic society, the funding of the judiciary must, necessarily, be removed from the control of the executive so that its officials would not be unduly influenced or hamstrung in the discharge of their statutory responsibilities. It is however, taken for granted that in a society buffeted by corruption i.e. Nigeria, a courageous, independent, unbiased and financially autonomous judiciary is a most needed bulwark against the continued reign of the monster of corruption and graft in the country. An indispensable tool in any meaningful anti-graft war!

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